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ABSTRACT

The document provides a state-by-state summary of laws and policies applicable to persons with epilepsy. State profiles cover the following 14 areas: adoption, antidiscrimination, arrest/search, drivers' licenses, institutionalization, marriage, reportability, special education, state certification, state education, state employment, state identification, sterilization, and workers' compensation. Information is explained to have been drawn from surveys completed by state officials. Recommendations of the Epilepsy Foundation of America are given for each of the 14 areas. (CL)

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THE LEGAL RIGHTS OF PERSONS WITH EPILEPSY

A Survey of State Laws and
Administrative Policies
Relating to Persons with Epilepsy
With a Special Section on
Model Legislation

1976 Edition

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FOREWORD

Millions of Americans have epilepsy.

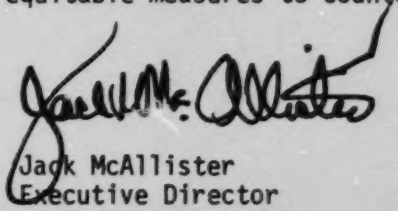
The vast majority of these individuals have seizure disorders which can now be completely controlled or alleviated by the use of anticonvulsant medication. Yet many of our country's current state laws and policies are still based on medical and psychological concepts which have long been discredited by enlightened discoveries.

These obsolete laws and practices frequently prevent persons with epilepsy from getting an education, driving automobiles, finding jobs, or obtaining insurance protection for themselves and their families. To this day some statutes cite epilepsy as a basis for annulment of adoption while others authorize involuntary sterilization.

Fortunately, as this study reveals, more and more states are recognizing the unfairness of discriminatory legislation, and are enacting new laws that protect the rights and privileges of persons with epilepsy without jeopardizing the public safety or the rights of other individuals or groups.

Although statutes and policies affecting the handicapped are changing almost daily, this fourth edition of the Legal Rights of Persons with Epilepsy helps to identify issues at this point in time.

It is my hope that this Legal Rights report will serve to stimulate further action by state agencies, lawmakers, committees, and others who recognize useless and discriminatory actions and policies and who can influence the adoption of practical and equitable measures to counteract them.



Jack McAllister
Executive Director

December 1976
Washington, D.C.

INTRODUCTION

This edition of the Legal Rights of Persons with Epilepsy is the fourth study of its type conducted by the Epilepsy Foundation of America. In addition to revising the previous document which concentrated on four areas (drivers' licenses, marriage, sterilization, and workers' compensation), it expands coverage into ten additional areas (adoption, antidiscrimination, arrest/search, institutionalization, reportability, special education, state certification, state education, state employment, and state identification). Previous studies were made in 1962, 1965 and 1972.

Objectives of the survey and publication of results are to: (1) identify and summarize current state statutes and administrative policies relating to epilepsy, and (2) encourage review and evaluation of the statutes in terms of modern medical and psychosocial knowledge so that repeal and/or revision of them may benefit the person with epilepsy as well as the entire community. In no instance should the results of this survey be considered legal advice. Legal advice should be obtained from a private or public attorney.

Sources of information used for this report are the most recent state statutes and administrative policies available to the Foundation. Interpretations of some statutes were reported in letters to the Foundation from official sources; these sources are noted where applicable. Primary contact was with the individual State Attorneys General who, in most cases, reported the information requested or referred the inquiry to other departments or state agencies. Each state was asked to review the 1972 edition, and report any revisions or amendments to its statutes. Additionally, the Attorneys General were asked to complete the questionnaire found in the appendix of this document. It solicits information in each of the ten additional areas. Data from each responding state were analyzed, and in some cases, copies of statutes cited were requested. Drafts were completed and returned to the states for correction of errors or oversights. It is noted that information supplied does not represent "official opinion" of the Attorneys General.

In compiling the Legal Rights of Persons with Epilepsy, an attempt was made to eliminate unfamiliar legal terminology. However, many of the statutes and interpretations were expressed verbatim in an attempt to avoid a misconception of the law. Advocacy in any of the areas reported in this publication should, of course, rely only on primary data sources, e.g., copies of the statutes or policies in question. This survey is an information source and not a legal document.

The Epilepsy Foundation of America wishes to thank the Attorneys General of the individual states and other state officers and departments whose help and cooperation in the in-depth reporting of current statutes and policies made this report possible.

Special appreciation goes to the National Center for Law and the Handicapped, Inc. for obtaining data for states not responding to our questionnaire and for assistance in editing. Also special thanks to David Lamb, Esquire, for his help with the Model Statute Section of this publication.

SUMMARY OF STATE LEGISLATION
AND MODEL STATUTES AND POLICIES
RELATING TO EPILEPSY

Since the first edition of "The Legal Rights of Persons with Epilepsy" was published in 1965, almost all of the states have reported changes or additions in their laws affecting persons with epilepsy. In general, these modifications have worked for the benefit of those with seizure disorders. They reflect enlightened attitudes and improved awareness of the handicapped person's problems, advances in medical sciences, and effective advocacy by individuals and organizations concerned with the disabled and stigmatized individual.

Nonetheless, in spite of advances, the need still exists to rescind discriminatory legislation and to enact laws which will ensure that the handicapped person is not denied his rights because of a physical or mental condition which society in its ignorance has labeled socially unacceptable. Certainly one such condition is epilepsy, a disorder long equated with insanity. Epilepsy, which is excessive electrical discharge in the brain, has been singled out as a "disease" which sets its "victims" apart from their neighbors.

Certainly, in some areas, a person with epilepsy should warrant special recognition and consideration, such as in drivers' licensing. However, in others, such as in reporting people to a state agency, statutes seem to single out individuals with seizure conditions without substantial reason; i.e., does reporting persons with epilepsy to the state department of motor vehicles actually reduce traffic accidents and save lives? Our research has not been able to uncover data to answer this question. Reporting laws seem quite arbitrary indeed.

Following is a summary of laws and policies applicable to persons with epilepsy, covered on a state-by-state basis, in a revised and expanded publication. In each of the fourteen areas of concern in this document, we will offer model legislation or administrative policy which we, as advocate for millions of Americans with epilepsy, believe best safeguard the rights of our constituency. Epilepsy will be singled out where necessary or advisable, and it will be deleted where enlightened attitudes and current knowledge point out that mentioning it seems arbitrary and discriminatory.

ADOPTION

Five states cite epilepsy as a basis for annulment of adoption: Arkansas, Florida, Iowa, Missouri and Utah. Most of these laws say that the adopting parents may file a petition for annulment if epilepsy appears within five years after adoption as a result of conditions existing prior to adoption of which the parents had no knowledge or notice.

It is the position of the Epilepsy Foundation of America that such statutes are unjustifiably discriminatory against persons with epilepsy. Our research

could find no rationale for such provisions, and therefore we advocate the repeal of all such statutes. Epilepsy seems to be arbitrarily mentioned in the laws, either by itself or grouped with insanity, feeblemindedness, or venereal disease. These statutes foster ignorance and misunderstanding about the epilepsies, and contribute to the resulting discrimination toward those with seizure disorders.

ANTIDISCRIMINATION

Over one-half of the states now have statutory provisions which forbid discrimination against the handicapped in one or more of the following areas: employment, housing, places of public accommodation, property ownership, and state supported education and services. These statutes vary from quite comprehensive to peripheral in both provisions and penalties for noncompliance.

Antidiscrimination laws in five states specifically cite epilepsy in their definitions of physical handicap or disability: Maryland, Montana, Nebraska, New Jersey and Rhode Island. These resulted from the vigorous advocacy of individuals and organizations concerned with the handicapped, as well as from the enlightened efforts of legislators, administrators, and consumers.

It is the position of the Epilepsy Foundation of America that antidiscrimination statutes are necessary to ensure the rights of persons with epilepsy. We propose that laws contain, but not necessarily be limited to, the following provisions:

> It is unlawful for any employer, employment agency, or labor organization to fail or refuse to hire, promote or train; or to discharge any individual or employee; or otherwise to discriminate against any individual or employee with respect to his compensation, terms, conditions, or privileges of or right to employment, because of such individual's or employee's physical or mental handicap which is unrelated in nature or extent to reasonable performance of the employment.
>
> The term "physical or mental handicap" means any physical disability, condition, infirmity, malformation or disfigurement which is caused by or results from bodily injury, birth defect, or neurological condition <u>including epilepsy</u>, and which includes but is not limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a seeing eye dog, wheelchair, or other remedial appliance or device.
>
> It is unlawful for an owner, operator, administrator, or director of a facility or place of public accommodation, housing or other property, or of a state supported service to refuse or deny access, rent, sale, use or service to any individual or in any way discriminate against any such individual on account of such individual's physical or mental handicap.

ARREST/SEARCH

Legal or administrative provisions in at least nine jurisdictions currently require law enforcement officials to search a person subject to arrest for emergency medical identification: Connecticut, District of Columbia, Florida, Georgia, Minnesota, New Mexico, North Dakota, Pennsylvania, and South Carolina. These provisions help to prevent persons with epilepsy or other conditions causing lapse of consciousness from being arrested for presumed drunkenness or other erratic behavior when, in fact, the medical condition is the cause of the semi-conscious or unconscious state. Most statutes also require law enforcement officials to seek proper medical attention for the individuals in question.

It is the position of the Epilepsy Foundation of America that laws should be enacted to require law enforcement officials and medical practitioners to search a person unconscious, semi-conscious, or otherwise incapacitated to communicate, for medical identification prior to commencement of arrest or treatment. Statutes should contain, but not necessarily be limited to, the following provisions cited in the UNIFORM DUTIES TO DISABLED PERSONS ACT drafted by the National Conference of Commissioners on Uniform State Laws in August of 1972.

AN Act to provide for the use of identifying devices and to provide for the duty owed disabled persons.
(Be it enacted...)

Section 1. (Definitions) In this Act:
(1)"disabled condition" means the condition of being unconscious, semi-conscious, incoherent, or otherwise incapacitated to communicate;
(2)"disabled person" means a person in a disabled condition;
(3)"the emergency symbol" means the caduceus inscribed within a six-barred cross used by the American Medical Association to denote emergency information;
(4)"identifying device" means an identifying bracelet, necklace, metal tag, or similar device bearing the emergency symbol and the information needed in an emergency;
(5)"medical practitioner" means a person licensed or authorized to practice medicine (osteopathy and the healing arts).

Section 2. (Identifying Devices for Persons Having Certain Conditions)
(a)A person who suffers from epilepsy, diabetes, a cardiac condition, or any other type of illness that causes temporary blackouts, semi-conscious periods, or complete unconsciousness, or who suffers from a condition requiring specific medication or medical treatment, is allergic to certain medications or items used in medical treatment, wears contact lenses, (has religious objections to certain forms of medication or medical treatment), or is unable to communicate coherently or effectively in the English language, is authorized and encouraged to wear an identifying device.
(b)Any person may carry an identification card bearing his name, type of medical condition, physician's name, and other medical information.
(c)By wearing an identifying device a person gives his consent for any (law enforcement officer) or medical practitioner who finds

him in a disabled condition to make a reasonable search of his clothing or other effects for an identification card of the type described in subsection (b).

Section 3. (Duty of Law Enforcement Officer)

(a)A (law enforcement officer) shall make a diligent effort to determine whether any disabled person he finds is an epileptic or diabetic, or suffers from some other type of illness that would cause the condition. Whenever feasible, this effort shall be made before the person is charged with a crime or taken to a place of detention.

(b)In seeking to determine whether a disabled person suffers from an illness, a (law enforcement officer) shall make a reasonable search for an identifying device and an identification card in a manner or to an extent that would appear to a reasonable person in the circumstances to cause an unreasonable risk of worsening the disabled person's condition.

(c)A (law enforcement officer) who finds a disabled person without an identifying device or identification card is not relieved of his duty to that person to make a diligent effort to ascertain the existence of any illness causing the disabled condition.

(d)A (claim for relief) (cause of action) against a (law enforcement officer) does not arise from his making a reasonable search of the disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

(e)A (law enforcement officer) who determines or has reason to believe that a disabled person is suffering from an illness causing his condition shall promptly notify the person's physician, if practicable. If the officer is unable to ascertain the physician's identity or to communicate with him, the officer shall make a reasonable effort to cause the disabled person to be transported immediately to a medical practitioner or to a facility where medical treatment is available. If the officer believes it unduly dangerous to move the disabled person, he shall make a reasonable effort to obtain the assistance of a medical practitioner.

Section 4. (Duty of Medical Practitioners)

(a)A medical practitioner, in discharging his duty to a disabled person whom he has undertaken to examine or treat, shall make a reasonable search for an identifying device or identification card of the type described in Section 2 (b) and examine them for emergency information.

(b)A (claim for relief) (cause of action) against a medical practitioner does not arise from his making a reasonable search of a disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

Section 5. (Duty of Others)

(a)A person, other than a (law enforcement officer) or medical practitioner, who finds a disabled person shall make a reasonable effort to notify a (law enforcement officer). If a (law enforcement

officer) or medical practitioner is not present, a person who finds a disabled person may (1) make a reasonable search for an identifying device, and (2) if the identifying device is found may make a reasonable search for an identification card of the type described in Section 2(b). If a device or card is located, the person making the search shall attempt promptly to bring its contents to the attention of a (law enforcement officer) or medical practitioner.

(b)A (claim for relief) (cause of action) does not arise from a reasonable search to locate an identifying device or identification card as authorized by subsection (a).

Section 6. (Falsifying Identification or Misrepresenting Conditions)

A persons who with intent to deceive provides, wears, uses, or possesses a false identifying device or identification card of the type described in Section 2(b) is guilty of a (misdemeanor) (and upon conviction may be fined not more than ($300) or imprisoned for not more than (90 days), or both).

Section 7. (Other Duties)

The duties imposed by this Act are in addition to, and not in limitation of, other duties existing under the law of this State.

Section 8. (Uniformity of Application and Construction)

This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

Section 9. (Severability)

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 10. (Short Title)

This Act may be cited as the "Uniform Duties to Disabled Persons Act".

Section 11. (Repeal)

(The following acts and parts of acts are repealed:
(1)
(2)
(3) .)

Section 12. (Time of Taking Effect)

This Act shall take effect...

The Epilepsy Foundation of America prefers the term "person with epilepsy" over "epileptic".

DRIVERS' LICENSES

The most common state licensing statutes prohibit the licensing of applicants whose driving, in the opinion of the commissioner or administrator,

would be inimical to public safety or welfare. The state is generally empowered to give physical and mental examinations or to require a physician's statement when it is deemed necessary to determine the applicant's fitness to operate a motor vehicle safely. Most administrators set certain standards that persons with epilepsy must meet before qualifying for drivers' licenses. The most common requirement is medical certification of complete seizure control over a specified period of time.

The literature on epilepsy and driving supports the position that each case should be evaluated independently. Blanket laws prohibiting all persons with seizure disorders from driving are unrealistic, as are statutes which yield to the administrator or commissioner the sole power to determine if an individual with epilepsy is eligible. Instead, what is needed are state laws which grant drivers' licenses on an examining physician's statement that an applicant is under non-toxic levels of medication and is free from seizures while under this medication. Also, the granting of restricted or temporary licenses for periods of three to six months, followed by a permanent license after two seizure-free years, allows for public protection while ensuring that the person with epilepsy receives continuous care to control his seizures.

INSTITUTIONALIZATION

Although not necessarily the only reason for commitment, numerous states mention epilepsy in their statutes relating to admission to state institutions. Some laws do not serve as vehicles for potential discrimination against persons with epilepsy. Others, such as those which group "mentally ill, idiotic, epileptic, feebleminded, insane or imbecile", seem to unjustifiably include the person with a seizure disorder, whose condition and proper care are not usually within the purview of an institution designed to meet the needs of the mentally ill or mentally retarded. We do, however, recognize instances where mental illness or mental retardation is also present in the person with epilepsy. Generally, the Foundation advocates the proper care, diagnosis and treatment of all conditions and illnesses which deny individuals optimum development, and believes that institutional facilities should not be "catch-all" places for housing persons requiring custodial care for seizure conditions.

Additionally, the present federal priority of deinstitutionalization--returning to community based care those individuals capable of self-management with assistance from local resources--is strongly supported by the Foundation.

MARRIAGE

At the time of the first edition of this document in 1965, three states were listed as still having statutes which prohibited the marriage of a person with epilepsy. All three states have since repealed their laws.

REPORTABILITY

Currently ten states have statutes requiring the condition of epilepsy to be reported to a state agency. In most cases this means that a physician

must report to the state department of motor vehicles the names, ages, and addresses of all persons treated for, or diagnosed with, epilepsy. One state stipulates that physicians report only uncontrolled cases, while in another the statute applies only to people "adjudged epileptic" in a court of law.

It is the position of the Epilepsy Foundation of America that all laws requiring a physician to report to a state agency all cases of epilepsy diagnosed or treated contributes to the destruction of the doctor-patient relationship. The following resolution was passed by the Foundation's Professional Advisory Board (PAB) on December 5, 1974.

Reportability of Epilepsy

WHEREAS epilepsy is not a communicable disease and poses no threat to the public health; and

WHEREAS the physician-patient relationship has long been legally recognized as one of privileged information; and

WHEREAS any statute which requires a physician to report a patient with epilepsy to an agency of the government, e.g., state Department of Motor Vehicles, violates and destroys the physician-patient relationship;

THEREFORE BE IT RESOLVED THAT the PAB recommends that the Epilepsy Foundation of America take the position that epilepsy should not be classified as a reportable disorder.

SPECIAL EDUCATION

Today each of the fifty states and the District of Columbia has laws or administrative directives which provide for some kind of educational services for handicapped children. Some statutes mandate free special education services for all exceptional children, while others encourage or authorize the integration of these children into regular classroom settings. The Education for All Handicapped Children Act of 1975 requires that the public school system undertake the primary responsibility for educating all children. This act is being phased in and should be operable by 1978. Individual diagnosis, evaluation, and program delivery is emphasized, as opposed to simply grouping all special cases or labeling children with specific illnesses or conditions. It requires states to have plans for the education of all their handicapped children as a condition for receiving federal money. Severely handicapped people also receive special recognition.

Educators believe that the child with epilepsy should be part of the regular classroom unless frequent seizures are reasonably too upsetting to the class or associated problems inhibit the child's learning. In a recent study conducted by the Epilepsy Foundation of America (A Preliminary Exploration of Awareness of the Epilepsies Among Educators, 1974), it was found that for 90% or more of children with epilepsy, no special services are needed. But some 10% of children with seizure disorders have problems which require special education services and may need special facilities and programs. Our survey of state Departments of Special Education has led to the conclusion that data do not exist on the state level with which to adequately assess existing

special educational services or with which to plan for meeting the educational needs of exceptional children with epilepsy. From this study the following conclusions can be drawn: (1) more attention should be directed to understanding the child with epilepsy and his needs; (2) 10% of all children with epilepsy require special educational services; (3) only 13 states provided data on the number of children with epilepsy who need special educational services; and (4) a significant percentage of the population is not being served by the agencies designed to provide special education.

It is the position of the Epilepsy Foundation of America that comprehensive special education statutes should be enacted/amended in each of the fifty states and the District of Columbia containing, but not necessarily limited to the following considerations:

Each state be mandated to provide a free public education for all handicapped children regardless of the type or the severity of their handicap.

Each child should receive an education appropriate to his individual needs, including toilet training and self-grooming as reasonable educational objectives.

Each child should receive treatment and therapy in accordance with the disability and in the least restrictive environment.

Appropriate services should be rendered within a reasonable time after application--usually within 15-days.

"Epilepsy" should be cited in the definition of "handicapped" or "exceptional" children.

Free and appropriate education should be the right of all children regardless of mental or physical disability.

STATE CERTIFICATION

Various certification boards throughout the fifty states and the District of Columbia generally do not inquire about a candidate's past or present history of seizures. Of the five jurisdictions responding positively to this question, three have restrictive measures for licensing barbers. Idaho has certain restrictions for nursing certification, while the District of Columbia cited restrictions in the employment of security personnel.

It is the position of the Epilepsy Foundation of America that state certification applications should not include an inquiry into a past or present history of epilepsy. A question similar to "Do you have any mental or physical handicap or disability which would prevent or restrict you from performing the duties of your occupation or profession?" is an appropriate inquiry. Statutes or administrative policies which authorize direct inquiries concerning epilepsy should be amended by deleting "epilepsy", "seizure disorder", "fits", or similar terms.

STATE EDUCATION

Results of our survey indicate that higher education applications in approximately 20% of the states inquire specifically into a past or present history of epilepsy. While it is claimed that a positive answer to this question does not affect admission, we question the reasons for inclusion on the application. An item similar to "Do you have any mental or physical handicap which would prevent or restrict your performance as a student in this institution?" is an appropriate inquiry. The specific mention of epilepsy seems justified only on the physical examination/medical history form required in most schools after the student is accepted. This information is appropriate for use in the student health service only.

STATE EMPLOYMENT

Our data indicate that less than 15% of the states specifically inquire into a past or present history of epilepsy on applications for state employment. Data are not yet available on how many employers in the private sector make this inquiry.

While it is often claimed that an affirmative answer to the question "Do you have epilepsy?" plays no part in a person's acceptance/rejection for employment, we find no rationale for specifically citing epilepsy. An inquiry similar to "Do you have any mental or physical handicap or disability which would prohibit or restrict your employment?" is appropriate and purposeful. Should a physical examination or medical history be required for a specific position or reason (such as a state's requirement for Second Injury Law coverage), the inquiry concerning epilepsy per se would be appropriate at that time. It could be included as part of a confidential medical report.

STATE IDENTIFICATION

Our data indicate that over one-half of the states provide identification cards for citizens not eligible for drivers' licenses. Given the importance of identification for conducting financial and business affairs, official state cards might be a necessity for some individuals. Persons with seizure disorders who are not eligible for drivers' licenses are forced to depend on other forms of identification.

It is the position of the Epilepsy Foundation of America that statutes should be enacted to grant official state identification for citizens not eligible for drivers' licenses.

Statutes should contain, but not necessarily be limited to the following considerations:

> That the Department of _____ shall issue personal identification cards to handicapped persons who do not have or who are not eligible for a motor vehicle driver's license and who make application to the department in accordance with the rules and regulations prescribed by the administrator.

The identification card shall be similar in form but distinguishable in color from a motor vehicle driver's license and shall include the same identifying information.

In no case shall the identification card, the application for the identification card, or any other record in the department contain the type of disability or handicap. The application shall merely contain the applicant's signature attesting to the fact that he is eligible for a drivers' license by reason of a handicapping condition, but no mention of handicapping condition shall be in the applications or on the card itself.

STERILIZATION

In 1965, at the time of the first edition of this document, 14 states reported involuntary sterilization laws which applied to persons with epilepsy. The number has since been reduced to five: Arizona, Delaware, Oklahoma, South Carolina, and Utah.

It is the position of the Epilepsy Foundation of America that statutes authorizing or mandating involuntary sterilization of persons with epilepsy be repealed.

WORKERS' COMPENSATION

Although this section deals primarily with Second Injury Funds as they may apply to persons with epilepsy, a brief analysis of the workers' compensation system may help to illustrate how Second Injury provisions apply.

In general, an employee injured on the job is entitled to compensation for the disability resulting from his accident. To assure payment of these benefits, the employer is required by law to carry insurance or to prove his ability to self-insure.

Basic workmen's compensation insurance rates are set in each state on the basis of the industrial classification of individual jobs. Programs such as premium discounts and dividends of participating companies may provide premium reductions for the policy holder. Good accident experience may reduce premiums.

There is no adjustment in workmen's compensation rates for factors such as the number of handicapped employees, the physical condition of employees, or their ages, although the relative hazards in a company's work and its accident experience will be taken into consideration in the rate-setting procedure in the state.

Consider these two examples:

In Case No. 1, an able-bodied man loses one arm in an industrial accident. His loss is determined to have disabled him at the rate of 30 percent. He is paid compensation for 30 percent disability. The employer is merit-rated on the basis of these payments providing his total annual premiums qualify him for an experience rating.

In case No. 2, the worker is already handicapped. He has only one arm when he applies for the job. He is hired. He has an industrial accident and loses the other arm. In this case, the worker receives much higher disability payments because he is now 100 percent disabled.

The employer may be merit-rated on the basis of higher payments in case No. 2 than he is in case No. 1, even though each industrial accident caused the loss of one arm. The Second Injury Fund is an attempt to minimize the charges to the employer in a case involving an already handicapped worker.

The Second Injury Fund was designed to encourage employers to hire the handicapped. When Second Injury Fund bills were introduced in many state legislatures, they were commonly referred to as "Hire-the-Handicapped" laws. To illustrate the Second Injury Fund, refer to the example given above. In case No. 2, which involved the already handicapped worker, the employer's account was charged with a much greater disability than it was in case No. 1, which involved the able-bodied worker. In each case the industrial accident caused the loss of one arm. If there had been a Second Injury Fund, the additional disability payments due the worker in case No. 2 would have come out of the Fund. Such additional payments are not charged against the employer.

Second Injury Funds vary widely in coverage and application procedure, but courts have directed payment for persons with epilepsy in instances of on-the-job injury during a seizure. To qualify for Second Injury Fund coverage the employer is generally required to release information about the previous handicapping conditions of his employees. This obviously means that the person with epilepsy would be required to reveal his condition to his employer. It is our contention that this information should be obtained in a confidential medical report, but should not be part of the job application procedure.

The three most common Second Injury Fund provisions found among the states are:

(1) The first and second injuries must each result in the loss, or loss of use, of a member or eye, but it is not specified that the net result must be total disability;

(2) The pre-existing disability or impairment need not have been caused by an industrial accident and the net result of the pre-existing disability and the subsequent injury must be total and permanent disability;

(3) The pre-existing disability or impairment need not have been caused by an industrial accident and the net result of the disability and the subsequent injury need not be total disability.

In every state the cause of the second injury must be one that would entitle the employee to compensation benefits. In many states this means that the nature of the disability caused by the second injury is

restricted to the loss or loss of use of a member or eye. Although many states limit the prior injury to specific types of disabilities, e.g., loss of eye, very few states require that these prior injuries be job connected. Most states require that combined disabilities produce total and permanent disability.

With reference to second injury funds in individual states, statutes in a few states specifically cover employees with epilepsy. However, the language of statutes in many other states seems sufficiently broad to include employees with seizure disorders.

Although there is no evidence that persons with epilepsy have a higher than average rate of occupational injuries, the existence of a second injury fund that covers epilepsy would be helpful in dispelling the notion that hiring such persons increases an employer's workers' compensation premiums.

It is the position of the Epilepsy Foundation of America that second injury funds be established in each of the fifty states and the District of Columbia, and epilepsy be specifically cited for coverage by the legislation. Additionally it is advocated that laws similar to the 1969 New Hampshire Workmen's Compensation Law, reproduced below, be enacted. These statutes would require the provision of vocational rehabilitation services to any injured employee who is unable to perform work for which he had previous training or experience.

VOCATIONAL COMPENSATION AND WORKMEN'S COMPENSATION

Vocational Rehabilitation. When as a result of an injury covered by this act, an employee is unable to perform work for which he has previous training or experience, he shall be entitled to such Vocational Rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. If such services are not voluntarily offered and accepted, by the employer or insurance carrier, the labor commissioner, if necessary through informal hearing affording all parties to be heard thereon, may refer the employee to a qualified physician or appropriate facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such findings, and after affording the parties an opportunity to be heard thereon, the commissioner may order that the services and treatment recommended, or such other rehabilitation treatment or service he may deem necessary be provided at the expense of the employer or its insurance carrier. Vocational rehabilitation training, treatment or service shall not extend for a period of more than one year except in unusual cases when by special order of the labor commissioner, after informal hearing, the period may be extended as is deemed to be reasonable and necessary to accomplish a successful result. When vocational rehabilitation requires residence at or near a facility or institution, away from the employee's customary residence, the reasonable cost of his board, lodging and/or travel shall be paid for by the employer or its

insurance carrier. In addition, the employer or its insurance carrier shall pay reasonable cost for books, tools or other basic materials required in such rehabilitation process. Refusal to accept vocational rehabilitation pursuant to an order of the Labor Commissioner may result in loss of compensation for each week of the refusal if the Commissioner so directs.

ALABAMA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes prohibit licensing persons with epilepsy until restored to competency by judicial decree or released from a mental hospital and certified competent by the administrator. Generally, the statutes prohibit the licensing of "any person afflicted with or suffering from a physical or mental disability which, in the opinion of the director of public safety or examining officer, will prevent such person from exercising reasonable and ordinary control over a motor vehicle." (Title 36, Section 66, Code of Alabama, 1940, 1958 Compilation)

Before deciding to license a person with epilepsy who does not come within the statutory prohibition of "adjudged epileptic", the administrator requires certain provisions be met. Among them is the requirement that the applicant furnish the administrator annual certificates from his family physician. (Letter, Department of Safety, Driver License Division, September 13, 1960)

Denial or revocation of license is generally appealable to a court. (1959 Code, Title 36, Section 70)

INSTITUTIONALIZATION

Institutionalization based solely on the condition of epilepsy is prohibited. (Code of Alabama, Title 4a, Section 104) However, "an application to and of probate judge asks" if the person in question has "epileptic convulsions". (S 208)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

ALABAMA

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for special education programs for handicapped children. Epilepsy is not mentioned specifically in the legislation.

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

There are no specific provisions for the sterilization of persons with epilepsy, although inmates of a state institution may be sterilized if it is thought "advisable". (Letter, Department of Public Health, April 7, 1965)

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost or lost the use of a member or eye and, as the result of an industrial accident, lose or lose the use of another member or eye. Such persons are deemed totally and permanently disabled. (1959 Code, Title 26, Section 279(E)2)

Another provision limits compensable disability: "If the degree or duration of disability resulting from an accident is increased or prolonged because of a pre-existing injury or infirmity, the employer shall be liable only for the disability that would have resulted from the accident had the earlier injury or infirmity not existed." (1959 Code, Title 26, Section 288)

OTHER

Other statutes cited specifically mentioning epilepsy: Commitment to Partlow State School for mental deficients who may or may not include persons with epilepsy (Title 45, Chapter 6, Section 231); Disbursement of funds for crippled children suffering from acquired or congenital malformations including epilepsy (Title 49, Article 5). This information from Ralph A. Forsythe, "The Legal Status of the Epileptic Child in the Fifty States of the United States", March 1970.

ALASKA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

"It is unlawful for an employer to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of . . . physical handicap . . . when the reasonable demands of the position do not require . . . physical handicap . . . distinction." (AS 18.80.220)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes prohibit the licensing of persons who are subject to epileptic seizures. (AS 28.15.030(6)) The administrator licenses a person with epilepsy only on receipt of a physician's recommendation and generally imposes the restriction "Medical Certification Required for Renewal". (Letter, Department of Public Safety, Office of the Commissioner, September 13, 1960; also Department of Law, March 31, 1965) Statutes contain no appeal provisions.

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state does provide special education programs for children whose

handicaps prevent regular class attendance. Epilepsy is not specifically cited. (AS 14.30.350)

STATE CERTIFICATION

No information available.

STATE EDUCATION

No information available.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (AS 18.65.310)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

"Epilepsy will not be a compensable injury unless it arises out of and within the scope of the employment of the person injured." (Letter, Department of Law, March 31, 1965)

OTHER

A letter from the Attorney General of Alaska, September 9, 1971, states that the "Department of Health and Social Services considers persons with epilepsy to be covered by the state's mental health statutes". (AS Title 47, Chapter 30, in general) Further, under the general statutory authority conferred upon it, department services are currently provided for persons with epilepsy within "the scope of service for crippled children."

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The statutes have a general provision prohibiting the licensing of applicants whose driving would be inimical to public safety or welfare. The administrator is empowered to give such physical and mental examinations "... as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways." The administrator has authority to impose restrictions suitable to the licensee's driving ability with respect to where and when he may drive and "... such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee." (1961 Revised Statutes Title 28, Sections 413, 421 and 424)

The administrator's file on a driver with epilepsy contains the application which has information on the seizure condition, and a physician's letter. (Letter, Highway Department, Division of Motor Vehicles, September 11, 1960) Denial or revocation of license is generally appealable to a court. (1960 Revised Statute Title 28, Section 451)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

ARIZONA

SPECIAL EDUCATION

Special instruction facilities or education at home are only provided if the nature or severity of the handicap is such that education in regular classes, with use of supplementary aids and services, cannot be satisfactorily accomplished. Epilepsy is not specifically cited as a handicapping condition. (S 15-1015.A.3)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do inquire as to a past or present history of seizures. The information obtained does not affect admission, but is asked only for use in the institutions' Health Services Departments (infirmaries).

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. A "nineteenth birthday card" is issued by each clerk of the Superior Court and each municipal clerk upon request. The purpose of the card is to serve as legal identification for purposes of purchasing spiritous liquor. (ARS 4-225)

STERILIZATION

The law authorizes the superintendent of state hospitals to permit sterilization of persons with epilepsy. (1961 Revised Statutes Title 36, Section 531) Records disclose that there have been no sterilizations performed where the person had epilepsy alone. (Letter, Arizona State Hospital, November 3, 1960)

WORKERS' COMPENSATION

Second Injury Fund coverage is now available to persons who had a pre-existing disease or "disabling condition". Presumably this applies to persons with epilepsy. (ARS 23-1065, as amended in 1963)

ARKANSAS

ADOPTION

Annulment of adoption may apply to persons developing, within five years after the adoption, feeblemindedness, insanity, epilepsy, mental disturbance or veneral disease. This is handled through petition through and at the discretion of the court. (Title 56, Section 56-110)

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes authorize the administrator to give such examinations as are found necessary "... to determine the applicant's fitness to operate a motor vehicle safely upon the highways", and to deny a license to any person he has had a good cause to believe would be an unsafe driver. Restrictions suitable to the applicant's driving ability can be imposed. (1959 Statutes, Section 75-309, 318 and 324) Denial or revocation of a license is generally appealable to a court. (1959 Statutes, Section 75-338)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The Handicapped Children's Act of 1973 requires school districts to provide, as an integral part of the public schools, special education

sufficient to meet the needs and maximize the capabilities of handicapped children. The implementation of this act is declared an integral part of the policy of Arkansas. It was noted in our data that epilepsy is not specifically mentioned in the definition of handicapped, but "statutory definition is certainly broad enough to include it". (Letter, Assistant Attorney General, July 8, 1975) "Handicapped child means a natural person between the ages of six (6) and twenty-one (21) who because of mental, physical, emotional or learning disabilities requires special education services." (Arkansas Statutes Annotated 80-2115 -- 80-2139)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do inquire as to a past and present history of seizures. The information does not affect admission, but is used for Health Services information only. For medical school, the application procedures might include submission of neurological reports.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost the use of a member or eye and become permanently and totally disabled by the loss or loss of use of another member or eye. (1960 Statutes, Section 81-131F)

CALIFORNIA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes contain antidiscrimination provisions for the physically handicapped in the area of employment. (A.B. 1126) It has been noted by the Epilepsy Society of San Diego that epilepsy has been tested and is considered a physical handicap. Whether discrimination might be ruled in court depends upon the nature of the job and the extent of the person's medical condition and ability to perform the job.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The application for a driver's license must state whether the applicant "within the last three years, has experienced on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses..." (1975 Vehicle Code, Section 12800H) One section of the code states that a person may not be licensed "When it is determined by examination or other evidence, that such person is unable to operate a motor vehicle upon a highway... because of experiencing, within the last three years, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses..." (Section 12805e) However, another section provides that if a physical or mental defect does not, in the opinion of the Department of Motor Vehicles, affect the driver's ability to exercise reasonable and ordinary control in operating a motor vehicle, a license may be issued (Section 12806a). Persons with epilepsy are licensed under this section; the Department is able to issue a probationary license "with such reasonable terms and conditions as shall be deemed by the Department to be appropriate" (Section 14250) whenever a driver can be issued a license under Section 12806a. Revocation of the driving privilege will occur if a person "has knowingly made a false statement or knowingly concealed a material fact, or otherwise committed any fraud in any ... application". (Section 12809d).

The California Epilepsy Society received the following information from the Department of Motor Vehicles, Sacramento, October 18, 1973. "The term 'lapses of consciousness or control' as it relates to driving qualifications is used to describe a variety of conditions, any of which may adversely affect an individual's ability to operate a motor vehicle

safely. The Department has no rigid policy on issuance of a driver's license to a person who has a history of lapses of consciousness or control. Each case is considered individually and the decision based on its particular merits.

Whenever this is brought to the attention of the Field Office or Headquarters, an interview or hearing is scheduled to review the history of the case and determine what action, if any, is necessary in the interest of traffic safety. Upon signed authorizations the statements and recommendations of the person's physician, who is thoroughly familiar with the case in question, are given considerable weight in determining eligibility to drive. The Department also considers the subject's traffic record, including accidents, annual mileage and years of driving. The Department may take no action, may impose a confidential medical probation with periodical medical reports, or may withdraw the driving privilege.

It is not necessary for the person to bring medical records or letters to the hearing. The Department may already have the information or will need to solicit specific information from the doctor which may not be in the letter carried to the hearing.

If the person's driving privilege has been revoked, the waiting control period may take one or more years of being symptom free before reinstatement depending on the individual case. Seldom are any two cases exactly alike. Upon request and when current information shows that the condition has been brought under effective control for a continuous period of time for the particular case, the Department will consider reinstatement.

Whenever the person believes that the action by the Department is not supported by the evidence, he or she may ask the Superior Court to review the case as provided for in Section 14400 of the Vehicle Code."

INSTITUTIONALIZATION

Statutes on admission to state institutions do not specifically mention epilepsy. The language of previous statutes has been changed to "developmental disabilities" and entry to facilities usually requires mental retardation and an ongoing medical problem for entry.

Our survey further revealed that California law provides for commitment to state mental institutions on a voluntary basis and by way of judicial proceeding. A person may voluntarily commit his or herself if he or she is "suffering from a mental disorder ... (and) is a suitable person for care and treatment ..." Welfare and Institutions Code § 6001. In a given instance, a person suffering from epilepsy may come within this provision.

A person may be committed to a state mental institution by way of a judicial proceeding for a variety of reasons including mental retardation. A mentally retarded person means:

> "those persons, not psychotic, who are so mentally retarded from infancy or before reaching maturity that they are incapable of managing themselves and their affairs independently, with ordinary prudence, or of being taught to do so, and who require supervision, control, and care, for their own welfare, or for the welfare of others, or for the welfare of the community ..." Welf. & Inst. Code § 6500.

Again, in a given instance a person suffering from epilepsy might come within the scope of this provision. (Letter, Assistant Attorney General, January 20, 1976)

The California Epilepsy Society notes that the state has hospitals for the Developmentally Disabled and others solely for those with mental or psychiatric problems. The hospitals for the developmentally disabled admit only persons with epilepsy who are retarded. Except for rare judicial commitments, all patients are admitted through the regional centers for the developmentally disabled. Their discharge from the facility is also handled by the regional centers. Admission to State Hospitals for persons with psychiatric disorders is handled by the Department of Mental Health.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Disorders characterized by lapses of consciousness are reportable by physicians to the local health department and this information is then sent to the State Department of Public Health for transmittal to the State Department of Motor Vehicles. (1963 Health and Safety Code, Section 410; and Administrative Code, Title 71, Section 2572)

The definition of what shall constitute a reportable case of a disorder characterized by lapses of consciousness is: "Any person aged 14 years or older who during the preceding three years has experienced on one or more occasions either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, including momentary lapses of consciousness or episodes of marked confusion, shall be considered to have a disorder characterized by lapses of consciousness and shall be reportable.

"This definition includes, but is not limited to persons subject to lapses of consciousness or episodes of marked confusion resulting from neurological disorders, senility, diabetes mellitus, cardiovascular disease, alcoholism or excessive use of alcohol sufficient to bring about blackouts

(retrograde amnesia for their activities while drinking)." (Administrative Code, Title 17, Section 2572, 1966)

SPECIAL EDUCATION

Education Code Section 6801 provides that:

"...the governing board of any school district may make such special provisions as in its judgement may be necessary for the education of physically handicapped pupils. 'Physical handicapped pupil', as used in this article means a physically defective or handicapped person under the age of 21 years who is in need of education..."

Education Code Section 6802 provides that:

"any pupil who, by reason of a physical impairment, cannot receive the full benefit of ordinary education facilities, shall be considered a physically handicapped individual for the purposes of this chapter. Such pupils include the following, as defined by the State Board of Education:

(a) The deaf or hard of hearing.

(b) The blind or partially seeing.

(c) Orthopedic or health impaired.

(d) The aphasic.

(e) The speech handicapped.

(f) Other pupils with physical illnesses or physical conditions which make attendance in regular day classes impossible or inadvisable.

(g) Pupils with physical impairments so severe as to require instruction in remedial physical education.

(h) Multihandicapped."

If a pupil suffering from epilepsy fell within the scope of the term "physically handicapped individual" as that term is used in this provision, e.g., if attendance in regular day classes was inadvisable for that pupil, then he or she would be eligible to participate in such special classes as a school district might maintain. (Letter, Assistant Attorney General, January 20, 1976)

STATE CERTIFICATION

State certification boards do not inquire whether the candidate has a past or present history of epilepsy. Inquiries are posed regarding a continued

medical problem, and certain applicants must submit medical reports regarding specific problems, but boards cannot refuse certification for epilepsy per se.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for State Civil Service does not ask about physical disabilities, but if the applicant qualifies for the job he then must fill out a medical questionnaire which includes "epilepsy".

STATE IDENTIFICATION

Statutes do provide for identification cards for citizens not eligible for drivers' licenses. Cards may be obtained if specifically requested from the Department of Motor Vehicles. (Vehicle Code Section 13000)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Workers' Compensation statutes provide that "an employee who is suffering from a previous permanent disability or physical impairment and sustains permanent injury thereafter shall not receive from the employer compensation for the later injury in excess of the compensation allowed for such injury when considered by itself..." But where the effects of the previous disability or impairment and the subsequent injury equal 70 percent of the total permanent disability, the Second Injury Fund is generally available provided second injury alone results in 35 percent or more of the total disability. (1963 Labor Code, Sections 4750 and 4751)

Regarding epilepsy specifically, if the pre-existing epilepsy is of a disabling nature, it is covered by the Second Injury Fund. (Letter, Department of Industrial Relations, October 20, 1960; and telegram, State Bar of California, April 8, 1965)

CALIFORNIA

OTHER

The California Epilepsy Society also notes the following:

HEALTH INSURANCE - The handicapped have the right to be covered for health care services which normally cover people for hospital, medical, or surgical expenses on a group basis. The one limitation is that the insurer shall not be required to cover hospital, medical or surgical expenses arising as a direct result of a physically disabled person's handicap. Signed into law July, 1975.

FAIR EMPLOYMENT PRACTICES - Adds discrimination based on physical handicap to unfair employment practices as prohibited by the California Fair Employment Practices Act and makes such disrimination subject to jurisdiction and control under the State Fair Employment Practices Commission. It further declares that the opportunities to seek, obtain and hold employment without discrimination because of race, religion, color, national origin, ancestry, physical handicap or sex is hereby recognized as and declared to be a civil right.

Physical handicap includes impairment of sight, hearing or speech or impairment of physical disability because of amputation or loss of function and coordination, and any other health impairment which requires special education or related services. The commission is authorized to function as an investigative and conciliation instrument whenever conflicts arise relative to the practices given in the legislation.

NOTE: A new bill has passed the Assembly and is on the way to the Senate which will create a California Civil Rights Commission to replace the Fair Employment Practices Commission.

NOTE: Information regarding the legal rights of persons with epilepsy in California was provided in part by the Epilepsy Society of San Diego.

COLORADO

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment, property ownership, housing and places of public accommodation. Epilepsy is not specifically cited in the statutes.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes provide that no license be issued to a person who has been adjudged by a court to be afflicted with a disease and has not at the time or application been returned to competency in the manner prescribed by law. (CRS 1963, 13-4-3(2)(e) 1965 Cum. Supp.)

Without court action the administrators can still refuse to grant a license unless and until they are satisfied of the applicant's competency and fitness. (CRS 1963, 13-4-4(e)) In order to determine such fitness the administrators can require the applicant to submit to a physical or mental examination. (CRS 1963, 13-4-10, 1965 Cum. Supp.)

The Department of Revenue requires the applicant who has a history of epilepsy to present to the Drivers' License Section a medical certificate stating that he has been free from seizures for a period of one year. (Under authority given by CRS 1963, 13-4-10, 1965 Cum. Supp.) The Department can also consult the Medical Advisory Committee, composed exclusively of physicians, as to what action should be taken on the license applications when medical questions are presented. Every person denied a license may obtain a judicial review of the administrative decision. (CRS 1963, 13-4-27)

INSTITUTIONALIZATION

No information available.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

COLORADO

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state does make provision for special education programs for handicapped children. The Colorado Special Education Act specifically mentions epilepsy. (CS Article 20, Title 22)

STATE CERTIFICATION

Some state certification boards do ask whether the candidate has a past or present history of seizures. For example, persons with epilepsy are not eligible for licensing as barbers.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available to persons who have previously lost or lost the use of a member or eye and, as the result of an industrial accident, lost or lost the use of another member or eye; such persons are prima facie, considered totally and permanently disabled. (CRS 1963, Section 81-12-7)

CONNECTICUT

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

It is unlawful for an employer or his agent to refuse to hire or employ or to discharge from employment an individual, or to discriminate against him in compensation, terms, conditions or privileges of employment because of physical disability. Statutes also prohibit discrimination in places of public accommodation and in state programs such as education, counseling and vocational guidance programs. (P.A. No. 73-279 amending sections of the General Statutes)

ARREST/SEARCH

Duty of law enforcement officer before charging with a crime, a person found in unconscious condition. (54-40a)

All law enforcement officers shall make a diligent effort to determine if any person they find in a semi-conscious or unconscious condition is wearing an identification card bearing such person's name and any of the following information. A statement of illness such as epilepsy...shall notify such person's physician immediately...transport to a physician or to some facility.

DRIVERS' LICENSES

The Commissioner has discretion in issuing licenses to insure safety. He may require a physician's certification of the ability of the person to drive safely if the person has a condition which might affect his driving ability. He may issue limited licenses. (Section 14-36(b) of General Statutes Revised 1958, as amended) It has been decreed that a person must remain free of any epileptic-type seizure for a period of at least two years before any consideration will be given to the issuance of an operator's license. Thereafter, a medical certificate must be filed periodically showing that the operator remains seizure-free. (Letter, Department of Motor Vehicles, December 9, 1962; and Letter, Attorney General, March 22, 1965) License holders with epilepsy are identified as such in the records of the Department of Motor Vehicles. (Letter, Department of Motor Vehicles, September 15, 1960; and Letter, Division of Operator Control, April 1, 1965) The statutes contain no provisions for appeal from the decision of the administrator.

INSTITUTIONALIZATION

Statutes on admission to state institutions and other care facilities do not specifically mention epilepsy.

CONNECTICUT

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Each physician must report to the state department of health, in writing, the name, age and address of each person known to him to be subject to recurrent attacks of epilepsy in any of its forms or to recurrent periods of unconsciousness uncontrolled by medical treatment. Reports are sent to the Department of Motor Vehicles. The reporting form asks for the physician's opinion on whether the patient should be licensed to drive. (1961 Statutes, Chapter 246, Title 14, Section 46; and Letter, Department of Health, Office of Public Health, September 29, 1960)

SPECIAL EDUCATION

In accordance with the regulations of the state board of education, each town and regional school district shall provide special education for school age children who fall within the definition of "exceptional children". Epilepsy is not cited in the statutes. (General Statutes 10-76a-j) Although epilepsy is not cited in the statutes, there is a possibility that a child with epilepsy could come under the definition of 10-76(a)(e) "children requiring special education includes...(1)... physically handicapped or...neurologically impaired... .

STATE EDUCATION

The state's public higher education applications do not ask whether the student has or has had epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of epilepsy.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

CONNECTICUT

WORKERS' COMPENSATION

Generally, employees having physical defects which impose unusual hazards on their employers may waive their rights under the Workmen's Compensation Act for compensation for injuries arising from the particular physical condition. (Sections 31-325 of General Statutes, Rev. 1958, as amended) The Second Injury Fund covers"...an employee who has previously incurred, by accidental injury, disease of congenital causes, permanent partial incapacity (and) sustains an injury for which compensation is provided under this chapter which results in permanent total incapacity or which results in permanent partial incapacity greater than he would have incurred if he did not have the pre-existing incapacity..." (Sections 31-349, General Statutes, Rev. 1958, as amended) The Administrator has commented that the status of persons with epilepsy under this statute is not clear.

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

The state does not require law enforcement officials to search for emergency medical identification on individuals subject to arrest. With reference to people incarcerated within state penal institutions, a diagnostic service was created to make social, medical, psychological and other appropriate studies and investigations of persons committed to these facilities. (Title 11, Section 6523) The Department of Health and Social Services is obligated to provide reasonable health, medical and dental services, including preventive, diagnostic and therapeutic measures for all patients. (Title 11, Section 6536)

DRIVERS' LICENSES

The Department of Motor Vehicles cannot license a person who is "afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle..." (Section 2706(b)(5))

The Department also cannot license a person "subject to losses of consciousness due to disease of the central nervous system, unless such person furnishes the Department with the certificate of two Delaware physicians" who confirm that the infirmity is under sufficient control to permit safe operation of a motor vehicle. New certificates must be furnished annually no later than the anniversary date of the license, and not earlier than 45-days prior to the anniversary date. New certificates must indicate that an examination has been made of the person within the past year and that he or she can operate a motor vehicle safely. If the certificate is not received within seven days after the anniversary date, the license will be revoked and the holder notified.

If two Delaware physicians certify that treatment is no longer required and that the person "can reasonably be expected to suffer no further losses of consciousness on its account", the Department may find that annual certificates are no longer necessary. No physician who provides such a certificate in good faith shall be subject to civil or criminal liability because of the certificate. (Section 2706(b)(7)) Denial or revocation of license is generally appealable to a court. (1960 Code, Title 21, Sections 2715 and 2734)

DELAWARE

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Statutes require that every physician attending or treating persons with epilepsy report within one week to the Director of Motor Vehicles the names, ages and addresses of all persons treated. Reports are kept confidential and are used solely for the purpose of determining eligibility to operate motor vehicles. (Title 24, § 1963)

SPECIAL EDUCATION

The state does make provision for the special education of handicapped children. The State Board of Education or a local school district may establish "special schools" for children who are in need of education not provided for in regular classes or schools. (Title 14 § 203) The definition of exceptional children does not specifically mention epilepsy. (§ 3101) It is the duty of the principals, superintendents and teachers to report new disability cases. (§ 3105) The State Board of Education may enter into agreement to reimburse any local school district for part or all of the cost of educating handicapped children who are institutionalized. (§ 3109)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

DELAWARE

STATE IDENTIFICATION

Every person over 18-years of age and residing in the state may apply for an identification card. The fee is $3.00. (Title 21, § 3101)

STERILIZATION

Statutes authorize sterilization of persons with epilepsy who are institutionalized where it is deemed advisable. (1960 Code, Title 16, Section 5701 et seq.)

WORKERS' COMPENSATION

"Whenever a subsequent permanent injury occurs to an employee who has previously sustained a permanent injury, from any cause, whether in line of employment or other wise..." the Second Injury Fund is available if the net effect is total or permanent disability. Otherwise, only the portion of disability attributable to the second injury alone is compensable. (1960 Code, Title 19, Section 2327)

DISTRICT OF COLUMBIA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The District of Columbia has antidiscrimination provisions for the handicapped in the areas of employment, property ownership, housing and places of public accommodation. (D.C. Code, Title 6, Chapter 15; and Title 34, D.C. Rules and Regulations adopted by D.C. Council in November 1973)

ARREST/SEARCH

Each person subject to arrest in the District of Columbia is searched. If a medic alert device is found, and if there is something apparently physically wrong, the subject is sent immediately to a hospital, the subject's health being of primary concern. The final papers of arrest are completed only after hospital results have been produced. (Statement of Corporation Counsel, District of Columbia)

DRIVERS' LICENSES

A person with epilepsy may be issued a driver's permit if, "in addition to meeting all other requirements of this Chapter (other routine regulations), he furnishes the Department with a physician's certificate indicating that the physician has knowledge of the seizure history of the applicant but that, in the physician's opinion, the applicant can operate a motor vehicle safely so as not to endanger life and property. The applicant shall be required, in addition, to sign an affidavit that he has had no epileptic seizures for the two years next preceding the date of his application. Such applicant shall be required to file a similar affidavit each and every six months while he holds a District operator's permit. Should the applicant fail to file such affidavit, his permit shall be revoked until he shall furnish the Department with evidence that he is physically qualified with the meaning of this Chapter." (Motor Vehicle Regulations, Title 32, Section 2.608)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

DISTRICT OF COLUMBIA

REPORTABILITY

Epilepsy is not required to be reported to District agencies.

SPECIAL EDUCATION

The District of Columbia makes provision for the special education of handicapped children unable to attend regular classes. Epilepsy is not specifically mentioned in any applicable mandate. (Mills vs. Board of Education, 348 F. Supp. 866 (D.D.C. 1972))

STATE CERTIFICATION

Certification boards do not ask specifically whether a candidate has or has had epilepsy. However, the Board of Education requires a physical examination which may disclose a seizure disorder. Also, Article 2, Section 5A8 of the Police Regulations excludes persons with epilepsy from becoming Guides. Regulation 74-31 excludes persons with severe epilepsy from becoming Security Guards.

STATE EDUCATION

The District's public higher education applications do not inquire as to a past or present history of seizures.

STATE EMPLOYMENT

The application for District of Columbia employment (Federal Government Standard Form 171) does not ask whether a candidate has or has had epilepsy.

STATE IDENTIFICATION

The District of Columbia does provide identification cards for persons unable to obtain a drivers' licenses. (D.C. Police Regulation No. 74-16, enacted June 29, 1974)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

A Second Injury Fund ("Special Fund") does exist. If an employee receives an injury, which combined with a previous disability does in fact cause

permanent total disability, the employer shall provide compensation only for the disability caused by the subsequent injury. (33 U.S. Code, Section 908f) Additionally, 33 U.S. Code Section 944 indicates that there is a special fund established for the purpose of making payments in accordance with the provisions of Subsection (f) of Section 908. Also, D.C. Code, Section 36-501, states that "aggravation of a pre-existing condition may constitute compensable accidental injury."

There is no mention of epilepsy in any of the above sections, dealing with workers' compensation.

FLORIDA

ADOPTION

Statutes do include epilepsy as a basis for adoption annulment. Consult the Director of Family Services, Department of Human Resources for specific conditions.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment, property ownership, housing and places of public accommodation. Epilepsy is not mentioned specifically in the statutes.

ARREST/SEARCH

The state does require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Generally, the Administrator cannot license persons he has reason to believe would be unsafe drivers. (1960 Statutes, Title 22, Section 322.05) Persons with epilepsy must show that they have been seizure-free for two years before licenses will be issued to them. They must submit reports for renewal of licenses for two years thereafter before they will be released from this requirement. (Letter, Department of Public Safety, September 19, 1960)

Denial or revocation of license is subject to administrative and judicial review. (1960 Statutes, Title 22, Sections 322.270 et seq. and 323.31; also Letter, Attorney General, August 29, 1962)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

FLORIDA

SPECIAL EDUCATION

The state makes provision for special education programs for handicapped children. Epilepsy is not specifically mentioned in the statutes, but individuals are "administratively" included in the programs.

STATE CERTIFICATION

No information available.

STATE EDUCATION

No information available.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Florida has a special disability trust fund, and epilepsy is specifically cited. (Title 24, Section 440.49) For details on the law, contact the State Division of Labor, Bureau of Workmen's Compensation, Tallahassee, Florida.

GEORGIA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes require law enforcement officials to make "diligent efforts" to determine if any person found semi-conscious or unconscious has epilepsy, diabetes or another condition which would cause these semi-conscious or unconscious states before such person may be charged with a crime. Officials are required to obtain necessary medical attention for such an individual. (Ga. Code S 79-603)

"Any person who suffers from epilepsy...or any other type of illness which causes temporary blackouts, semi-conscious, or complete unconsciousness is hereby authorized to wear an identification bracelet or metal tag or carry an identification card with the person's name, type of illness, physician's name and medication required engraved, stamped or imprinted thereon." (Ga. Code S 79-602) "Any person who willfully and knowingly falsifies such identification or deliberately misrepresents such an illness as causes blackouts, unconscious or semi-conscious periods as described in Section 79-602 shall be guilty of a misdemeanor." (Ga. Code S 79-9902)

DRIVERS' LICENSES

A general provision prohibits the issuance of licenses to persons unable by physical or mental conditions to operate motor vehicles safely. (1933 Code, Title 92A, Section 404) An individual subject to seizures is required to furnish his complete medical history to the Department of Public Safety. (Letter, Department of Public Safety, September 21, 1960) Denial or revocation of license is generally appealable to the Director of Public Safety. (1933 Code, Title 92A, Section 422)

68B-216 Driver License Advisory Board

(a) The commissioner is authorized to appoint a driver license advisory board.

(b) The board shall advise the commissioner on medical criteria and vision standards relating to the licensing of drivers.

(c) The department, having cause to believe that a licensed driver or applicant may not be physically or mentally qualified to be licensed,

may obtain the advice of the board. The board may formulate its advice from records and reports or may cause an examination and report to be made by one or more members of the board or any other qualified person it may designate. The licensed driver or applicant may cause a written report to be forwarded to the board by a person of his choice who is licensed under the provisions of Chapter 84-9 or 84-11 to diagnose and treat disorders of humans. Such report shall be given due consideration by the board. (Acts 1975, pp. 1008, 1022)

68B-217 Reports by Physicians and Vision Specialists

(a) The driver license advisory board appointed by the department shall define disorders characterized by lapses of consciousness or other mental or physical disabilities affecting the ability of a person to drive safely for the purpose of the reports required by this section, and the department may use these definitions to promulgate regulations making such disorders and disabilities disqualifications, under certain conditions, for obtaining or keeping a driver's license for any class or classes of vehicles.

(b) All physicians licensed under Chapter 84-9 to diagnose and treat disorders and disabilities defined by the department shall report to the department, in writing, the full name, date of birth and address of every person over 15 years of age diagnosed as having any such specified disorder or disability within 10-days after such diagnosis.

(c) All other persons licensed under Chapter 84-11 to diagnose and treat disorders defined by the department shall report to the department, in writing, the full name, date of birth and address of every person over 15-years of age diagnosed as having any such specified disorder or disability within 10-days after such diagnosis. (Acts 1975, pp. 1008, 1023)

68B-307 Authority of the Department to Suspend or Revoke License

(a) Therefore, the department is hereby authorized to:

1. Suspend the license of a driver without a preliminary hearing
2. Revoke the license of a driver without a preliminary hearing upon a showing by its records or other sufficient evidence that the licensee is incapacitated by reason of disease, mental or physical disability.

(b) Any person whose license is revoked pursuant to Section 68B-307 (a)(2) thereafter shall be entitled to a hearing before the department upon receipt by the department of a written request herefor. Such hearing shall be held within 30-days of the receipt of such request.

68B-315 Right of Appeal to Court

Any decision rendered by the department shall be final unless the aggrieved person shall desire an appeal. In such case such person shall

have the right to enter an appeal in the superior court of the county of his residence or in the superior court of Fulton County. It must be filed within 30-days from the date the department enters its decision or order. The appeal may be heard by the judge at term or in chambers or by a jury at the first term. The hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts of the department. No person shall be allowed to operate any vehicle in violation of any suspension or revocation by the department while any such appeal is pending.

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is required to be reported to state agencies. See Drivers' Licenses Section.

SPECIAL EDUCATION

Statutes mandate the establishment and maintenance of special education facilities and services for children and youth with special needs. Epilepsy is not specifically cited although "children and youth with special needs" are defined as those who "have emotional, physical, communicative or intellectual deviations, or a combination thereof, to the degree that there is interference with school achievements or adjustments or prevention of full academic attainment..." (1975 Ga. Code Chapter 32-6A)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of seizures, although a required physical examination for some schools may reveal a seizure disorders. Admission to certain professional schools may be limited by "extreme severity of condition."

GEORGIA

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state provides for the issuance of identification cards for individuals not permitted to operate motor vehicles. (Ga. Code S 92A-2901 et seq.)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

There is no Second Injury Fund. (Letter, Board of Workman's Compensation, October 18, 1960) However, there is a statutory provision relating to second injuries. "If an employee who suffers an injury in his employment, has a permanent disability or has sustained a permanent injury... suffered elsewhere, he shall be entitled to compensation only for the degree of incapacity which would have resulted from the later accident if the earlier disability or injury had not existed." (1933 Code, Title 114, Section 408)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

"It shall be unlawful employment practice or unlawful discrimination for an employer to refuse to hire or employ or to bar or discharge from employment, any individual because of his...physical handicap... which does not have a substantial relationship to the functions and responsibilities of the prospective or continued employment..."

"It shall be unlawful to discriminate against any individual in compensation or in the terms, conditions or privileges of employment because of his...physical handicap..." Statutes cite employers, employment agencies and labor organizations. (Act 30, S.L.H., 1975)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes prohibit the licensing of those individuals with physical or mental disabilities which would make them unsafe drivers. The Administrator is required to make such examination as is necessary to determine the applicant's physical and mental abilities to operate a motor vehicle safely. (Hawaii Revised Statutes, 286-104, 108)

Drivers' licenses are not issued to people who are subject to epileptic seizures. When such a case comes to the Administrator's attention, the license is generally suspended pending a physician's certificate. (Letter, Honolulu Police Department, September 23, 1960) Denial or revocation of license is generally appealable to a court. (H.R.S. 296-219)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

HAWAII

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for the special education of handicapped children. The definition of handicapped children does not specifically cite epilepsy. (H.R.S. 301-22)

STATE CERTIFICATION

State certification boards do not inquire whether the candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is available to persons with latent impairments who are subsequently injured, regardless of the cause of the latent impairment, and the next effect need be only partial disability. (H.R.S. 386-33; Letter, Bureau of Workman's Compensation, October 25, 1960)

"If an employee receives an injury which of itself would cause a permanent partial disability but which, combined with a previous disability, results

in a greater permanent partial disability or in permanent total disability, the employer shall pay compensation only for such disability as would have been caused by the injury without the previous disability. The employee shall be entitled to full compensation for his actual permanent partial or total disability, and, after receipt of the compensation payable by the employer, weekly payments of the balance of the compensation to which the employee is entitled shall be made out of the special compensation fund by orders of the Director of Labor and Industrial Relations."

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

"...the disabled shall be employed in the state service, the service of the political subdivisions of the state, in public schools and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved." (§ 56-707)

"The physically disabled are entitled to full and equal accommodations in all common carriers, hotels, lodging houses, places of public accommodation or other public places." (§ 56-703)

"Any person, whether citizen or alien, may take, hold and dispose of property, real or personal." (§ 55-103)

ARREST/SEARCH

Statutes do not require the Administrator to withhold licenses where issuing them would be inimical to public safety. Restricted licenses may be issued. (1961 Code, Title 49, Sections 309 and 320) "Controlling medication at all times" is the restriction placed on some licensees, and their licenses are renewed each six months if they remain seizure-free. (Letter, Department of Law Enforcement, September 27, 1960)

Denial or revocation of license is generally appealable to a court. (1961 Code, Title 49, Section 334) The Administrator may suspend or revoke a license of an operator who is subject to a disease causing lapses of consciousness which is or may become chronic, making that person incompetent to drive a vehicle. (Idaho Code 49-330(4) as amended in 1967)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

IDAHO

SPECIAL EDUCATION

It is the responsibility of each school district to educate its exceptional children whose handicaps prevent regular class attendance. The definition of "exceptional children" does not specifically mention epilepsy. (Idaho Code § 33-2001--33-2002A)

STATE CERTIFICATION

Candidates for nurses' certification are asked about a past or present history of epilepsy. If the candidate answers "yes", the nurse must state that the condition is controlled and produce a letter from a physician attesting to the statement prior to certification. Other state certification boards do not ask about epilepsy specifically.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of seizures.

STATE EMPLOYMENT

The application for state employment does not ask whether a candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide for the issuance of identification cards for persons not eligible for drivers' licenses. (Idaho Code Title 23, Chapter 12)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost or lost the use of a member or eye and become permanently totally disabled by the loss or loss of use of another member or eye. (1961 Code Title 72, Section 315)

Compensation for total permanent disability may be had in certain cases involving injury to limbs caused by accident and pre-existing conditions. (Idaho Code 72-315(b))

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes contain antidiscrimination provisions for the handicapped in the areas of employment practices, property ownership, and housing. (1971 Chapter 38, Illinois Revised Statutes, Section 65-23 through 27)

Chapter 23, Illinois Revised Statutes, Section 3361 and the following establish for blind, the visually handicapped and the otherwise physically disabled, "The same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places." The section goes on to list a number of specific services which should be available to the physically handicapped, including airplanes, buses, hotels, places of public accommodation, and "other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons." This section guarantees to blind persons the right to be accompanied by a guide dog, trained for the purpose in any of the public accommodations listed in the section without being required to pay an extra charge for the dog, but also provides that the person shall be liable for any damage done by the dog on the facilities or premises. Interference with the rights established in this section may be punished by criminal prosecution as a misdemeanor.

Also note that...P.L. 79-186 Amends Fair Employment Practices Act. Provides that discrimination against handicapped persons and a refusal to rehire acquitted persons discharged because of arrest are unfair employment practices. (Adopted July 11, 1975)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest, although this is reported to be a matter of standard procedure.

DRIVERS' LICENSES

"The Secretary of State shall not issue or renew any license...to any person when the Secretary of State has good cause to believe that such person by reason of physical or mental ability would not be able to operate a motor vehicle with safety upon the highways, or to any person who is afflicted or has been afflicted with epilepsy unless such person shall furnish to the Secretary of State a verified written statement, acceptable to the Secretary of State, from a competent medical specialist

to the effect that the operation of a motor vehicle by such person would not be inimical to the public safety." (1969 Statutes, Chapter 95 1/2, Sections 6-103)

"Quarterly medical reports are no longer required by any person who is afflicted with epilepsy. (Rule 6-103.8, Office of the Secretary of State) The new rule stipulates that any individual who suffers or has suffered periods of temporary loss of consciousness must file an agreement with this office (Secretary of State) wherein he has authorized his medical doctor to report any change in his condition which would interfere with his ability to safely operate a motor vehicle.

The rule further stipulates that no person who suffers or has suffered periods of temporary loss of consciousness shall operate a motor vehicle upon the highways of this State unless a statement can be submitted from a competent medical authority that, in his opinion, the person can safely operate a motor vehicle." (Letter, Administrator, Office of the Secretary of State, October 7, 1974) Rule 6-103.8 requires that the applicant and his physician sign an agreement whereby the above two stipulations will be honored.

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

See paragraph two of the Drivers' Licenses Section.

SPECIAL EDUCATION

School boards of any school districts that maintain a recognized school, whether operating under the general law or under a special charter, shall maintain such special education facilities as may be needed for one or more of the types of handicapped children...who are residents of their school district. Epilepsy is not specifically cited. (Chapter 122, Illinois Revised Statutes, Section 14-4.01)

STATE CERTIFICATION

State certification boards do not ask whether or not a candidate has or has had epilepsy or seizures. (Sources are the Assistant Director of the

ILLINOIS

Board of Regents and the Executive Officer of the Board of Governors of State Colleges and Universities.

STATE EDUCATION

The applications to our state's public higher education facilities do not ask whether or not the applicant has or has had epilepsy or seizures, but the health form which is sent out after the applicant has been accepted does ask the question.

STATE EMPLOYMENT

The application for employment does not ask whether or not a candidate has or has had epilepsy or seizures but it does ask if an applicant has any "physical disability".

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses. Cook County does provide identification cards for citizens not eligible for drivers' licenses and for anyone who wishes an I.D. card. This was the only County we were able to locate that does have this system.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is available only to persons who have previously lost or lost the use of a member or eye and subsequently lose or lose the use of another member or eye, resulting in total and permanent disability. (1969 Statutes, Chapter 48, Section 138.8)

Section 23 permits no waiver of compensation rights unless approved by the Commission.

NOTE: Information regarding the legal rights of persons with epilepsy in Illinois provided through the courtesy of the National Center for Law and the Handicapped, Inc. and the Chicago Metropolitan Chapter of the Epilepsy Foundation of America.

INDIANA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes state that a license will not be issued "to any person who, in the opinion of the department is afflicted with, or suffering from, such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle, while operating such vehicle on the public highways: Provided that a person subject to epileptic seizures shall not be denied a license under the provisions of this section, if he presents a statement from a licensed physician that he is under medication and is free from seizures while under medication." (Indiana Code 9-1-4-30, Amended 1971)

INSTITUTIONALIZATION

Statutes on admission to state institutions do mention epilepsy. Provision is made for institutionalization of persons with epilepsy at the New Castle State Hospital. This includes admission, care and discharge. (Burns Statute 16-14-9 (1-31) Code Edition)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Statutes mandate the provision of special education for handicapped children. Epilepsy is not mentioned specifically in the laws. (Burns Statute 20-1-6 (1-) Code Edition)

INDIANA

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of seizures.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is available only to persons who have previously lost or lost the use of a member or eye and subsequently lose or lose the use of another member or eye, resulting in total and permanent disability. (Burns 1964, Supls. 40-1308; Acts 1963, Chapter 387, Section 8) However, the opinion has been expressed that it is possible that a person who sustains an accidential injury of such severity as to aggravate a pre-existing latent impairment and result in permanent total disability would be in a position to partake of the Second Injury Fund benefits under its permanent toal disability feature. (Letter, Industrial Board, October 19, 1960; Indiana Code 22-3-3-13)

ADOPTION

If within five years after the adoption, a child develops mental retardedness, epilepsy, mental illness...as a result of conditions existing prior to the adoption, and of which the adopting parent had no knowledge or notice, a petition may be filed in the district court of the county, and if the existing facts are proved the court may annul the adoption. (1975 Code of Iowa, Section 600.7)

ANTIDISCRIMINATION

Statutes contain antidiscrimination provisions for the handicapped in the areas of employment, housing, places of public accommodation and credit practices. The Civil Rights Chapter of the Iowa Code mentions "disability" and "physical disability" but does not specifically cite epilepsy. (1975 Code of Iowa, Chapter 601A)

ARREST/SEARCH

No information available.

DRIVERS' LICENSES

The statute prohibits the licensing of persons the Administrator has cause to believe would not be safe drivers by reason of physical or mental disabilities. Where there is reason to believe that such disabilities exist, an examination can be required. (1975 Code of Iowa, Sections 321.77 and 321.186)

The Drivers License Division reports that it attempts to get assurance that the person with epilepsy will not suffer seizures while driving before extending operative privileges.

(Letter, Department of Public Safety, Drivers License Division, November 4, 1960) Denial or revocation of license is generally appealable to a court. (1975 Code of Iowa, Section 321.215)

The Epilepsy Association of Area X reports that a one year seizure-free period is necessary prior to application for a license.

INSTITUTIONALIZATION

Statutes on admission to state institutions do not specifically mention epilepsy.

IOWA

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

No information available.

SPECIAL EDUCATION

The state makes provisions for the special education of handicapped children. The right to education legislation does not specifically cite epilepsy. (1975 Code of Iowa, Section 280.8 and Chapters 273 and 281)

STATE CERTIFICATION

No information available.

STATE EDUCATION

No information available.

STATE EMPLOYMENT

No information available.

STATE IDENTIFICATION

No information available.

STERILIZATION

The Commissioner of Public Health states that persons with epilepsy are not among those who may be reported to the State Board of Eugenics and, therefore, are not subject to sterilization. (Letter, Department of Health, October 17, 1960)

However, the sterilization statute does require the reporting of certain groups of persons (epilepsy not cited) for sterilization. Persons in these groups--mentally ill or retarded, syphilitic, habitual criminals, moral degenerates, or sexual perverts--are reportable if they are a menace to society and would be likely to produce children having an inherited tendency twoard--(among other things) epilepsy... (1958 Code of Iowa, Sections 145.2 and 145.9)

IOWA

The following is an Attorney General's opinion regarding the sterilization of persons with epilepsy. "The legislature, in enumerating the conditions which could result in sterilization of an individual, failed to include an epileptic. It becomes clear that the State Board of Eugenics can only order the sterilization of an individual who is mentally ill or retarded, syphilitic, habitual criminal, degenerate, sexual pervert and who is a menace to society, since 145.9 necessarily refers to 145.2." (Confirmed by Letter, Department of Justice, November 12, 1971) The Iowa Law on Eugenic Sterilization is compulsory for those persons mentioned in the law, but the provision has never been enforced. (Confirmed by Letter, Department of Justice, November 12, 1971)

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost or lost use of a member or eye and, as the result of an industrial accident, lose or lose the use of another member or eye. (1975 Code, Section 85.64) The statutes also state that "any person who has some physical defect which increases the risk of injury, may, subject to the approval of the industrial commissioner, enter into a written agreement with his employer waiving compensation for injuries which may occur directly or indirectly because of such physical defect, provided, however, that such waiver shall not affect the employee's benefits to be paid from the second injury fund under the provisions of Section 85.64." (1975 Code of Iowa, Section 85.55)

NOTE: The Iowa State Developmental Disabilities Council has prepared suggest revisions in the Iowa Code in the areas of adoption, drivers' licenses, and sterilization, among others. These draft revisions were delivered to members of the 66th Iowa General Assembly in January 1976.

KANSAS

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

"Persons who are physically disabled shall be employed in the service of the state political subdivisions of the state, the public schools and in all other employment supported in whole or in part by public funds, on the same terms and conditions as the abled-bodied, unless it is shown that the particular disability prevents the performance of the work involved." (KSA 39-1105)

"All public financed and supported buildings must conform to standards of the American Standard Specifications for Physically Handicapped for Public Buildings and Facilities." (KSA 58-1301)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

There are no specific statutory provisions governing the licensing of persons with epilepsy. Generally, a license cannot be issued to any person who "...is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary care over a motor vehicle..." The applicant is required to state whether he has any physical or mental infirmities which would interfere with normal operation of a motor vehicle. If the application does indicate that the applicant is afflicted with such a disability, then he must pass an examination before being licensed. (1959 Status, Title 8, Sections 235 and 237) Denial or revocation of license is generally appealable to the Superintendent of Motor Vehicles. (Section 255)

If a person with epilepsy becomes involved in an accident, his license is cancelled and reinstated only after a statement is received from his physician saying that he has had no attacks for at least one year. There is no provision for reporting a person with epilepsy who is not involved in either a traffic accident or some other type of serious moving violation. The statutes do provide that the Motor Vehicle Department may question a person's ability to drive at any time. (Letter, Motor Vehicle Department, October 15, 1962)

KANSAS

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for the education of developmentally disabled and homebound children. Epilepsy is not specifically cited. (KSA 72-932 et seq.)

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (KSA 8-1324)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Epilepsy is covered under the Second Injury Fund. The net result of the pre-existing impairment, such as epilepsy, and the accident must be either death or disability. The Fund can be invoked in two types of cases: Where the pre-existing impairment contributes to the resulting disability or death, the Fund is liable for that portion of disability or cost of death attributable to the pre-existing impairment; and where the second injury would not have occurred but for the pre-existing impairment, the Fund is liable for all the disability or death payments. (General Statutes, 1961, Supls., 44-566 and 44-567)

Another provision allows a person affected by a non-disabling occupational disease to waive in writing, subject to the approval of the worker's compensation commissioner, full compensation for any aggravation of his condition that may result from his continuing in his hazardous occupation. (Sec. 44-5a15)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Whenever a person with an epileptic condition applies for a driver's license, or applies for a renewal of a driver's license, he shall present to the division of driver licensing certification by a physician that his condition is controlled by drugs, a detailment of the drugs and dosages of same which the person takes, his own statement that he has been free of any seizures for one year before the date of the application, and that he is taking the medication prescribed by his physician. The division will then issue him a letter of authorization to present to the circuit court clerk. (KRS 186-411)

INSTITUTIONALIZATION

Statutes on admission to institution do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state provides for the special education for handicapped children. The term "exceptional children" refers to the neurologically impaired, but does not specifically mention epilepsy. (KRS 157.200 et seq.)

KENTUCKY

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is applicable if: "(a) The employee is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received subsequent compensable injury by accident, or has developed an occupation disease;...(or)...(b) The employee is found to have a dormant non-disabling disease condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease... and the resulting permanent disability...is greater than that which would have resulted from the subsequent injury or occupational disease alone..." (1961 Statutes, Section 342.120) The Workmen's Compensation Board indicates that persons with latent impairments, such as epilepsy, are covered by the Fund. (Letter, Workmen's Compensation Board, October 1960)

LOUISIANA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes contain antidiscrimination provisions for the physically handicapped. In access to public places, accommodations and facilities, every person shall be free from unreasonable discrimination based on physical condition. (Louisiana Constitution of 1974, Article, Section 12)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes authorize the Administrator to withhold and revoke licenses where the individual is deemed unqualified to exercise ordinary and reasonable control in the operation of a motor vehicle. (1960 Statutes Amended, Title 32, Sections 408, 414 and 419) The Administrator requires medical statements as to the frequency and severity of seizures and as to whether they are controlled by medication. (Letter, Department of Public Safety, Drivers License Division, September 27, 1960)

A physically handicapped person is required to have a physician submit a detailed medical report indicating the severity of his disability and limitations which might impair his ability to exercise ordinary and reasonable control of a motor vehicle. (Title 32, Section 403.2) The Louisiana Medical Advisory Board was established to advise the drivers' license division in cases where the applicant is physically impaired. (Title 40, Sections 1351-1355) Denial or revocation of license is generally appealable to a court. (1960 Statutes, Title 32, Sections 414D and 419)

INSTITUTIONALIZATION

Statutes provide for admission to Pinecrest State School for the diagnosis, care, education and rehabilitation of mentally ill, inebriate or epileptic persons. Any parent, custodian or person supporting a mentally defective or epileptic minor who cannot be trained in a public school may apply to the superintendent to have the patient admitted to a school for mentally defectives. (RS Title 28, Sections 22 and 60)

LOUISIANA

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Statutes provide for special education services and programs for handicapped children. Epilepsy is cited in cases where the person cannot be trained in the public school system. (RS Title 28, Section 60; see Institutionalization) Other statutes do not specifically mention epilepsy. (Act #306, Implementation date 1973-74)

STATE CERTIFICATION

No information available.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of epilepsy.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Epilepsy is specifically cited as a "permanent partial disability" in the Louisiana Workmen's Compensation Second Injury Fund Law. The

employer or employee, or both jointly, should register this pre-existing permanent disability with the Second Injury Board prior to the subsequent occupational injury. For complete information write to: Workmen's Compensation Second Injury Fund, P.O. Box 44187, Capitol Station, Baton Rouge, Louisiana 70804.

MAINE

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the area of employment. (Title 26, Maine Revised Statutes, Chapter 7)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The statute requires applicants to pass physical examinations to determine their ability to safely operate motor vehicles. (1964 MRS, Title 29, Section 531) Known persons with epilepsy are referred to a neurologist for certification that they are controlled or have been without seizure for a year or more. When such certification is made, a license is issued with the restriction that the applicant maintain the use of medication prescribed for the period prescribed. The restriction is required until such time as it may be changed by notification by the physician. (Letter, Department of State, Motor Vehicle Division, September 13, 1960)

Denial or revocation of license is generally appealable to a court. (1964 MRS, Title 29, Section 2242)

INSTITUTIONALIZATION

Title 34, Section 2101 of the Maine Statutes provides for treatment and care at state institutions for mentally ill, feeble-minded or epileptic persons. (Ralph A. Forsythe, "The Legal Status of the Epileptic Child in the Fifty States of the U.S.", March 1970)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

MAINE

SPECIAL EDUCATION

The state makes provisions for special education programs for handicapped children. Epilepsy is not specifically mentioned.

STATE CERTIFICATION

Information not available.

STATE EDUCATION

Information not available.

STATE EMPLOYMENT

The application for state employment does not ask whether a candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Effective September 23, 1971, the Second Injury Fund is available to an employee who has previously incurred a permanent incapacity by accidental injury, disease or congenital causes, who sustains an industrial injury which in combination with the earlier pre-existing impairment shall result in total and permanent impairment. (RS, Title 39, Section 57, as amended by Public Law, 1971, Chapter 320, Section 1)

Section 67 permits no agreements by an employee to waive his rights to compensation unless the Commissioner approves.

MARYLAND

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes contain antidiscrimination provisions for the handicapped in the areas of employment, housing and places of public accommodation. Epilepsy is specifically mentioned under the definition of handicapped. The provisions in employment mention hiring, discharging, compensation, terms, conditions and privileges and apply to employers, employment agencies and labor organizations. (The Laws of Maryland of 1974, Chapters 601 and 875)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest. As a matter of standard police procedure, the officer is required to ascertain whether the arrestee is subject to any special medical problems.

DRIVERS' LICENSES

The Department of Motor Vehicles has discretion in issuing licenses in order to withhold them from persons it believes may be unsafe drivers. The Department is also authorized to impose such restrictions on a license "...as the Department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee." The Commissioner is authorized to appoint a Medical Advisory Board consisting of qualified doctors of medicine (members of which are recommended by the Medical and Chirurigical Faculty, the State Medical Association). All cases in which the applicant for a driver's license has a medical problem which "would be inimical to public safety and welfare" are referred to this Board for an advisory opinion. Each case is reviewed individually without any pre-existing rules or regulations. Denial or revocation of license is generally appealable to a court. (Article 661/2, Sections 2-305, 6-103, 6-211, Annotated Code, 1970 Replacement Vol.)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

MARYLAND

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state does make provision for the special education of handicapped children. Epilepsy is not specifically mentioned in the statute. (Annotated Code of Maryland, Article 77, Sections 99-106D)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (Article 66 1/2, Section 6-601)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The statute refers to injuries to the body as a whole, e.g., a back injury. If a permanent disability following an accidental injury is due in part to a pre-existing disease or infirmity, the part that is attributable to the pre-existing disease or infirmity is not compensable; the part attributable solely to the accident is compensable. An exception is when combined disability of the body as a whole exceeds 50%. In such case the employee will receive compensation for his

disability. (Sections 36 (7) and 66, Article 101, Annotated Code, 1964 Repl. Vol.)

The statute refers to an injury to a specific member, e.g., eye, foot, hand, arm or leg. If a member is injured and no waiver is thereafter obtained in a subsequent injury, compensation can be claimed a second time of such member. (Section 51, Article 101, Annotated Code, 1964 Repl. Vol.)

MASSACHUSETTS

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Discrimination based on physical handicap is prohibited in public housing. (Massachusetts General Law, Chapter 121B, Section 32) "With respect to employment, G.L. Chapter 149, Section 24K, forbids refusal to hire or discharge an otherwise qualified 'rehabilitated handicapped person'. While this phrase has not been judicially construed, it would seem applicable to persons with epilepsy who have received rehabilitation. Although there are no Massachusetts cases specifically defining a person with epilepsy as a handicapped person, the inclusion of persons with epilepsy among the 'handicapped persons' to be services by the Massachusetts Rehabilitation Commission, G.L. Chapter 6, Sections 78-79, is a very strong indication that persons with epilepsy should be deemed handicapped persons for purposes of all remedial legislation." (Letter, Chief, Civil Rights/Civil Liberties Division, Department of the Attorney General, July 21, 1975)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest. Although such a search is not mandated, it is included in the training manual for new law enforcement recruits.

DRIVERS' LICENSES

The Administrator is authorized to prescribe the examination that applicants for licenses must pass. (1961 Annotated Laws, Chapter 90, Section 8) Persons with "epileptic-form type of seizures" are issued licenses upon the report of a qualified neurologist certifying that, according to the doctor's records, the applicant has been free of seizures for at least 18 months; and the signed promise of the applicant to furnish periodic reports from the same neurologist. (Letter, Registry of Motor Vehicle, September 22, 1960)

The statute contains no provision for appeal from the decision of the Administrator.

Persons with seizures are issued licenses after an evaluation and report is submitted from a diplomate neurologist, a member of the American Board of Psyciatry and Neurology. All other rules and regulations remain the same as of this date. (Letter, April 19, 1965, Registry of Motor Vehicles)

MASSACHUSETTS

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

A new law mandates special and appropriate educational programs for all children with special needs from ages 3-21...or to the attainment of a high school diploma or its equivalent. The law requires each school system to set up teams to evaluate and plan for each special needs child. Various treatment services are then provided. (Massachusetts General Law, Chapter 71B, Sections 1-14) "Although epilepsy is not specifically mentioned, G.L. Chapter 71B, Section 1 defines a school age child with special needs as any child with 'temporary or more permanent adjustment difficulties or attributes arising from intellectual, sensory, emotional, or physical factors, cerebral dysfunctions, perceptual factors, or other specific learning disabilities or any combination thereof'--a definition clearly broad enough to include persons with epilepsy." (Letter, Chief, Civil Rights/Civil Liberties Division, Department of the Attorney General, July 21, 1975)

Additionally, the law requires the Massachusetts Rehabilitation Commission to establish and operate a vocational program for persons with epilepsy. (Massachusetts General Law, Chapter 6, Section 79(f))

STATE CERTIFICATION

State law permits the Board of Registration of Barbers to suspend registration of any barber having epilepsy, with the suspension to last for not more than six months. (Massachusetts General Laws, Chapter 112, Section 87L)

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

MASSACHUSETTS

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

There is no official state issued identification card other than a driver's license, although local communities provide liquor purchase identification cards for citizens without drivers' licenses. (Massachusetts General Law, 138-34B)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

On January 1, 1974, the Second Injury Law was amended. (Massachusetts General Laws, Chapter 855) The basic components of the new law are: 1) The employee must have a known physical impairment prior to having an accident on the job to be aided under its provisions; 2) The known physical impairment plus an accident on job must result in a disability which is substantially greater by reason of the combined effects of such impairment than would have resulted from the subsequent personal injury alone; 3) Second injury fund reimbursement starts at the 105th week of compensation at a rate not to exceed fifty (50) percent of the total benefits; 4) In the case of a veteran who has a service connected disability and who receives a personal injury on the job, the second injury fund pays benefits at a rate not to exceed fifty (50) percent of the total benefits for the first 104 weeks and at a rate not to exceed one hundred (100) percent of the total benefits thereafter; 5) An employer does not have to be aware of a pre-existing physical impairment prior to a person's employment. However, the fact of a pre-existing impairment must be established from pre-existing medical records, employment questionnaires, statement from the employee, or physical examination by the employer received within 30-days of the start of employment; 6) No employee can waive his right to compensation; and 7) No lump sum payment by the insurer may be reimbursable unless the Attorney General has had the opportunity to review the case. In any event this lump sum payment cannot cover any period of time during the first 104 weeks of disability, except under circumstances cited in number 4. (This information obtained from a publication of the Governor's Commission on Employment of the Handicapped)

MICHIGAN

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

As of April 1, 1977, Act No. 220 of Public Acts of 1976 defines the civil rights of individuals who have handicaps and prohibits discriminatory practices, policies and customs in the exercise of those rights. The Michigan Civil Rights Commission is responsible for implementation of "Michigan's handicappers' civil rights act".

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

An individual with a history of epilepsy, who can obtain medical certification that he has been seizure-free for at least one year immediately prior to applying for a Michigan Driver's License, may be eligible for licensing.

INSTITUTIONALIZATION

State statutes on admission to state institutions do mention epilepsy. Involuntary commitment solely on the basis of epilepsy is prohibited, but the law permits a person with seizure disorder to voluntary commit himself. (1974 Public Act 258, § 402)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Physicians are not required to report cases of epilepsy to the state.

SPECIAL EDUCATION

The law requires school systems to provide special education programs and services for handicapped persons. The definition of handicapped person does not specifically mention epilepsy. (Act 198 of the Public Acts of 1971)

However, epilepsy is mentioned in the "Physically and Otherwise Health Impaired" (POHI) section of the "Guidelines for Special Education Programs and Services in Michigan", a 173-page publication issued in 1974 by the Michigan Department of Education in accordance with Public Act 198 of 1971.

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

No information available.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (MCLA 4.480(1) et seq.)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Chapter 9 of the Michigan Workmen's Compensation Law, which became effective July 1, 1972, provides that employers hiring individuals certified by the Vocational Rehabilitation as vocationally handicapped due to epilepsy shall have a 104 week limit to any liability for any subsequent workmen's compensation claim for any reason. Liability extending beyond that period, even for life, shall be assumed by, and claims paid by, a special state fund set aside for that purpose. The subsequent claim does not have to be at all related to the original disability.

NOTE: Information on "The Legal Rights of Persons with Epilepsy in Michigan" provided in part courtesy of the Epilepsy Center of Michigan.

MINNESOTA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the disabled (a mental or physical condition which constitutes a handicap) in the areas of employment, property ownership, housing and places of public accommodation and educational institutions. Epilepsy is not mentioned specifically in the statutes. (Minnesota Statutes Chapter 363.01 et seq.)

Minnesota Statute 72A.20 makes it an unfair practice in the business of insurance to reject an individual's application for life, health or accident insurance or to determine the rate class of an individual on the basis of disability unless the claims experience and actuarial projections and other data establish significant and substantial differences in class rates because of disability.

ARREST/SEARCH

Statutes require law enforcement officers to make diligent efforts to determine whether any disabled person (unconscious, semi-conscious, incoherent, or otherwise incapacitated to communicate) has epilepsy or another condition of cause, and to obtain necessary medical assistance. (Minnesota Statutes § 145.851 et seq.)

DRIVERS' LICENSES

Statutes prohibit the licensing of a person who, in the opinion of the Commissioner, "is afflicted with or suffering from a physical or mental disability or disease as will affect such person in manner to prevent him from exercising reasonable and ordinary control over a motor vehicle..." An applicant must submit a letter from a physician attesting to the fact that he has remained free from blackouts or seizures for one year. (Minnesota Statutes 171.04 (1974)) The denial or revocation of a license may be appealed. (Minnesota Statutes 171.19 (1974)) A physician's letter must be submitted annually by people with epilepsy who hold licenses.

Liability insurance coverage of a licensed driver may be voided or reduced if the driver becomes subject to epilepsy and does not produce a written opinion from a physician testifying to his medical ability to operate a motor vehicle safely...or if the driver has an accident record, physical or mental condition that makes him an unsafe driver. (Minnesota Statutes 65B.15 (1974))

MINNESOTA

INSTITUTIONALIZATION

Although there is still a statute on the books that states that the Commissioner of Public Welfare can provide for the admission to a state hospital of a person with epilepsy who is a state resident or who may have been committed to the guardianship of the Commissioner, people in Minnesota are no longer committed to state hospitals or placed under guardianship solely on the basis of epilepsy. The guardianship laws of the state were completely rewritten in 1975 to refer solely to people who are mentally retarded, and the failure to remove the term epilepsy from the statute on admission to state institutions seems to have been merely an oversight. (Letter, Legal Advocacy for the Developmentally Disabled, July 6, 1976)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies, except as noted in the "Workers' Compensation" section.

SPECIAL EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does ask whether a candidate has a past or present history of seizures. The information is used for research regarding discrimination.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (Minnesota Statutes § 171.07 subd. 3(1971))

STERILIZATION

Persons with epilepsy have the same rights with respect to sterilization as other citizens.

MINNESOTA

WORKERS' COMPENSATION

The Minnesota Second Injury Law is a part of the workmen's compensation law intended to encourage employers to hire workers who have physical handicaps. This law limits the liability of employers under the workmen's compensation law in certain cases where a pre-existing physical impairment has been registered with the Department.

The physical impairments that can be registered by either the employee or the employer to take advantage of the law are as follows:

> (1) Epilepsy; (2) Diabetes; (3) Hemophilia; (4) Cardiac disease; (5) Partial or entire absences of thumb, finger, hand, foot, arm or leg; (6) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40; (7) Residual disability from poliomyelitis; (8) Cerebral Palsy; (9) Multiple Sclerosis; (10) Parkinson's Disease; (11) Cerebral Vascular Accident; (12) Chronic Osteomyelitis; (13) Muscular Dystrophy; (14) Thrombophlebitis; (15) Seizures; (16) Brain Tumors; (17) Pott's Disease; (18) Cancer of the bone; (19) Leukemia; (20) Any other physical impairment for which at least 50 weeks or more of weekly benefits would be payable as permanent partial disability if the physical impairment were evaluated according to standards used in workmen's compensation proceedings.

The law provides as follows:

> 1) If an employee who as a named physical impairment is registered with the Department of Labor and Industry and subsequently incurs a personal injury and suffers disability that is substantially greater because of his pre-existing physical impairment than what would have resulted from his personal injury alone, the employer or his workmen's compensation insurance carrier will pay to the employee all compensation benefits provided by the law. The employer or his workmen's compensation carrier, however, will be reimbursed from the special compensation fund for all compensation benefits paid in excess of 52 weeks of monetary benefits and in excess of $2000 in medical expense.
>
> 2) The Second Injury Law also provides that employers and insurers shall be 100 percent reimbursed from the special compensation fund for all compensation benefits paid to employees who have been registered for diabetes, hemophilia or seizure and who sustained a personal injury which results in disability or death which would not have occurred except for his pre-existing diabetes, hemophilia, or seizure condition.

MISSISSIPPI

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

State statutes prohibit discrimination against physically disabled persons in public facilities, conveyances and accommodations. Discrimination is also prohibited in state employment unless the disability materially affects performance of the work required. (1972 Code § 43-6-3, 43-6-4 and 43-6-15)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Statutes provide that licenses shall not be issued to persons with physical or mental disabilities which would prevent them from being safe drivers. (1972 Code § 63-1-9) This provision is interpreted by the Administrator as prohibiting the licensing of persons with epilepsy. (Letter, Department of Public Safety, September 27, 1960) Denial of license is appealable to a court and suspension is appealable to the State Highway Commissioner. (§ 63-1-31 and 63-1-53)

INSTITUTIONALIZATION

Statutes on admission to state institutions do mention epilepsy. It is stated that "feeble-minded persons may, or may not, be subject to epileptic seizures." (§ 41-19-101, 99-13-1) Epilepsy alone is not a basis for institutionalization.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

MISSISSIPPI

SPECIAL EDUCATION

Statutes provide for special education services and equipment for exceptional children for whom regular school facilities are not adequate. The laws do not specifically mention epilepsy. (1972 Code § 37-23-1 et seq.)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

Epilepsy does not affect admission to the state's public higher education facilities.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is available to persons who have previously lost or lost the use of a member or eye and are totally and permanently disabled by the loss or loss of use of another member or eye. (1972 Code § 71-3-73)

MISSOURI

ADOPTION

If an adopted person develops epilepsy as a result of conditions existing prior to the adoption, a petition for annulment may be filed up to five years after the adoption. (RSMo. Section 453.130)

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The statute states that "if the director has reasonable grounds to believe that an applicant is suffering from some known physical or mental ailment which ordinarily would interfere with the applicant's fitness to operate a motor vehicle safely upon the highways, he may require that...(the licensing examination)...include a physical or mental examination by a licensed physician of the applicant's choice, at the applicant's expense, to determine such fact." (RSMo. 1959, Section 302.173) The statutes provide for appeal in cases of denial or revocation. (RSMo. 1959, 302.311; Letter, Attorney General, March 23, 1965)

INSTITUTIONALIZATION

Statutes on admissions to state institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for special education programs for exceptional children. Epilepsy is not specifically cited in the statutes. (RSMo. Sections 178.260, 178.270 and 163.151)

MISSOURI

STATE CERTIFICATION

State certification boards do not ask whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (RSMo. Section 302.181)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is applicable: "If any employee who has a permanent partial disability, whether from compensable injury or otherwise, receives a subsequent compensable injury resulting in additional permanent partial disability so that the degree of percentage of disability caused by the combined disabilities is greater than that which would have resulted from the last injury, considered alone and of itself, and if the employee is entitled to receive compensation on the basis of the combined disabilities..."

Counsel for the Industrial Commission interprets this as covering latent impairments such as epilepsy. (Letter, Industrial Commission, October 13, 1960)

MONTANA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment, property ownership, housing, places of public accommodation and education. Epilepsy is specifically cited in the definition of "physical handicap". (Sections 64-301 et seq., RCM 1947, Note Section 64-305(14)) There is not discrimination where the nature or extent of the handicap reasonably precludes the performance of the particular employment or where the particular employment may subject the handicapped or his fellow employees to physical harm.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The division of motor vehicles shall not issue any license to any person as an operator or chauffeur, who is suffering from any form of epileptic type seizures or similar disorders characterized by lapse of consciousness or control, either temporary or prolonged, which is or may become chronic: provided that the division may in its discretion issue a license to a person suffering from epileptic type seizures or similar disorder characterized by lapse of consciousness or control, if otherwise qualified to be licensed to drive a motor vehicle, when the afflicted person can show through a written report from his attending physician that he has not experienced an epileptic type seizure or similar disorder characterized by lapse of consciousness or control for a sufficient period and that the condition is stabilized as attested to by said physician. (31-127) Denial or revocation of a license is generally appealable to a court. (1961 Revised Code, Title 31, Section 152)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

MONTANA

REPORTABILITY

Epilepsy, along with other conditions of lapsed consciousness, is reportable by the attending physician to the local health officer who, in turn, must report to the state health officer. The state health officer is then required to advise the Highway Patrol regarding the issuance of drivers' licenses for such persons. (Letter, Board of Health, October 17, 1960)

SPECIAL EDUCATION

The state makes provision for special education programs for handicapped children. Epilepsy is not specifically mentioned in the statutes.

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does ask whether a candidate has a past or present history of seizures. This information is considered as part of the applicant's state of health.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (RCM 1947, Section 31-170)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

A person who wishes to be certified as vocationally handicapped for purposes of this section may apply to the certifying agency on forms furnished by that agency. The certifying agency shall conduct an

investigation and shall issue a certificate to a person who meets the requirements for vocationally handicapped certification. "Vocationally handicapped" means a person who has a medically certifiable permanent physical impairment which is a substantial obstacle to obtaining employment or to obtaining reemployment if employee should become unemployed considering such factors as the person's age, education, training, experience, and employment rejection.

Upon commencement of employment or retention in employment of a certified vocationally handicapped person, the employer shall submit to the certifying agency, on forms furnished by the agency, all pertinent information requested by the agency. The certifying agency shall acknowledge receipt of the information. Failure to file the required information with the certifying agency within sixty (60) days after the first day of the vocationally handicapped person's employment or retention in empioyment, precludes the employer from the protection and benefits of this section unless the information is filed before an injury for which benefits are payable under this section.

The administrator of the division shall promulgate rules for certification of vocationally handicapped persons.

A person certified as vocationally handicapped who receives a personal injury arising out of and in the course of his employment and resulting in death or disability, shall be paid compensation in the manner and to the extent provided in this act, or in case of his death resulting from such injury, the compensation shall be paid to his beneficiaries or dependents. The liability of the employer for payment of compensation, for furnished medical care and burial as provided in this act shall be limited to those benefits occurring during the period of one hundred four (104) weeks after the date of injury. Thereafter, all compensation and the cost of all medical care and burial shall be the liability of the fund.

When a vocationally handicapped person receives a personal injury, the procedure and practice provided in this act applies to all proceedings under this section, except where specifically otherwise provided herein. Not less than ninety (90) nor more than one hundred fifty (150) days before the expiration of one hundred four (104) weeks after the date of injury, the employer, carrier, or the industrial insurance fund, as the case may be, shall notify the fund whether it is likely that compensation may be payable beyond a period of one hundred four (104) weeks after the date of the injury. The fund, thereafter, may review, at reasonable times, such information as the employer, carrier or industrial insurance fund as regarding the accident, and the nature and extent of the injury and disability.

If an employee was employed or retained in employment under the provisions of this act and a dispute or controversy arises as to payment of benefits or the liability therefor, the division shall hold a hearing and resolve all disputes. (92-709.1) To make a complaint contact the Division of Workers' Compensation.

NEBRASKA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do contain antidiscrimination provisions for the disabled in the area of employment. Epilepsy is specifically cited in the definition of "disability", and the law prohibits unlawful employment practices ("to fail or refuse to hire or to discharge any individual, or otherwise to terms, conditions, or privileges of employment") for employers, employment agencies, labor unions, and apprenticeship or training programs. (Nebraska Statutes Sections 48-1101 et seq.)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Nebraska does not have statutory provisions specifically governing the licensing of persons with epilepsy. There is a general provision requiring applicants for licenses, whose applications disclose physical defects, to show through examination that they have the necessary ability to safely operate a motor vehicle. They must show through examination that they meet the qualifications to the satisfaction of the examiner or their licenses are cancelled." (1960 Statutes, Chapter 60, Section 407; and Letter, Office of the Attorney General, July 7, 1975)

Denial or revocation of license is generally appealable to a court. (1960 Statutes, Chapter 60, Section 420)

INSTITUTIONALIZATION

Statutes regarding admission to state institutions do not specifically mention epilepsy. In the general mental retardation voluntary admission process, parents are asked to complete a personal description form which asks the following question: "Have there been any seizures?"

Additionally, statutes declare that the "Department of Public Institutions shall encourage scientific investigation of the treatment of insanity, epilepsy, and all other diseases and causes that contribute to defectiveness..." (Nebraska Statutes Supplement 1974, Section 83-112)

NEBRASKA

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

It is the duty of the board of education of every school district to provide or contract for special education programs for all resident children who would benefit from such programs. Such programs include, but are not restricted to, the development of self-realization, social awareness, economic usefulness and civic responsibility. In sections of the law covering the care and education of handicapped children, epilepsy is not specifically cited in the definition of "handicapped children". (Nebraska Statutes, Sections 43-504 et seq.)

STATE CERTIFICATION

The state application for a Nebraska teaching certificate asks if the candidate has epileptic seizures. If the answer is yes, the condition must be fully explained. It was noted that adequate explanation and assurance that the condition is under control is all that is required.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has or has had epilepsy.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. Birth registration cards are available from the Department of Health. These contain name, birthdate, and birthplace, as well as a certification number for the holder.

NEBRASKA

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

If an employee who has a pre-existing permanent partial disability whether from compensable injury or otherwise, which is or is likely to be a hindrance or obstacle to his obtaining employment or obtaining reemployment if the employee should become unemployed and which was known to the employer prior to the occurrence of a subsequent compensable injury, receives a subsequent compensable injury resulting in additional permanent partial or in permanent total disability so that the degree or percentage of disability caused by the combined disabilities is substantially greater than that which would have resulted from the last injury, considered alone and of itself; and if the employee is entitled to receive compensation on the basis of the combined disabilities, the employer at the time of the last injury shall be liable only for the degree or percentage of disability which would have resulted from the last injury had there been no pre-existing disability, and for the additional disability the employee shall be compensated out of a special trust fund created for the purpose, which sum so set aside shall be known as the Second Injury Fund. (Nebraska Revised Statutes, Section 48-128, R.S. Supplement 1974)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

It is an unlawful employment practice to fail or refuse to hire or to discharge an employee because of physical handicap. It is also unlawful to limit, segregate, or classify employees because of physical handicap. The statutes apply to employers, employment agencies, and labor unions. (NRS 613.330 and 651.070)

Also note that effective July 1, 1975, statutes allow classification of employment "...in those certain instances where religion, sex, age, physical or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise..." (NRS 613.350, Subsection (1))

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The statute prohibits the Administrator from licensing a person suffering from a physical or mental disability which would make him an unsafe driver. (1960 Statutes, Section 483.250) The Administrator requires certification from the treating physician that an applicant with epilepsy has had his condition cured or arrested by medication and has been free from seizures for at least one year. (Letter, Department of Motor Vehicles, Drivers' License Division, October 12, 1960) Denial or revocation of license is generally appealable to a court. (Section 483.520)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

The statute requires physicians to report to the State Board of Health the names, ages, and addresses of all persons diagnosed as a case of

epilepsy. The health division then reports this information to the Department of Motor Vehicles. The information is confidential and is used solely to determine drivers' eligibility. (NRS 439.270)

SPECIAL EDUCATION

The state statute requires that a school district make necessary provision for the education of handicapped children. Epilepsy is not specifically mentioned. (NRS 388.440 et seq.)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy. Additionally, it was noted that before the inspector of mines may issue a hoisting engineer's license, "the applicant must not be subject to attacks of unconsciousness or incoordination due to heart disease or any other cause. (NRS 626.140, Subsection (2d))

STATE EDUCATION

The state's public higher education applications do inquire as to a past or present history of "convulsions, blackouts or chronic nervousness".

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (NRS 427A.140 et seq.)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

There is a "Subsequent Injury Account" in Nevada. (NRS 616.426) Also, it is noted that epilepsy which results from a traumatic head injury of industrial origin is covered by the Industrial Act as an "accident". However, a person injured on the job during a seizure is provided medical treatment for the injuries suffered in the seizure, but not for the pre-existing disease. (Letter, Nevada Industrial Commission, August 23, 1962)

NEW HAMPSHIRE

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The New Hampshire Human Rights Statute (New Hampshire Annotated Statutes Chapter 354A) has no mention of handicapped or persons with epilepsy.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

"Before a license is granted to any person, the applicant, if he has not been theretofore licensed to operate a motor vehicle in this state, shall pass such examination as to his qualifications as the director shall prescribe. Such examination may include an examination for visual acuity as prescribed by the director. No license shall be issued until the director is satisfied that the applicant is a proper person to receive it. No physical defect of an applicant shall debar him from receiving a license unless it can be shown by common experience that such defect incapacitates him from safely operating a motor vehicle..." (New Hampshire Revised Statute Annotated, Chapter 261, Section 3, Supplement)

Regarding epileptics, specifically, the Motor Vehicle Department does not issue a license until the person has been controlled by medication for a period of 18-months and the Department has confirmed information from the Board of Health. (Letter, Motor Vehicle Department, September 15, 1960)

Denials, suspensions, and revocations are generally appealable. (New Hampshire Revised Statutes, Chapter 262, Section 41)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

NEW HAMPSHIRE

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for special education programs for handicapped children, although epilepsy is not specifically mentioned. (New Hampshire Annotated Statutes, Chapter 186-A 1965) "Handicapped child" has three classifications by a 1973 Amendment. Physically handicapped means a child up to 21-years of age, married or unmarried, whose activity is or may become so far restricted by reason of a physical defect or informity, however caused, so as to reduce his normal capacity for education or self-support. Intellectually handicapped means a child up to 21-years of age, married or unmarried, whose activity is or may become so far restricted by intellectual handicap, however caused, as to reduce his normal capacity for education or self-support or both. Emotionally handicapped means a child up to 21, married or unmarried, who by reason of internal emotional conflicts, home conditions or general environment, has behavior and/or learning problems, or is otherwise unable to make social or educational adjustments, but who has sufficient intellectual and emotional capacity to be enabled with clinical diagnosis, proper treatment, training and remedial education, to become a responsible and self-supporting citizen.

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

NEW HAMPSHIRE

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is applicable where an employee with a permanent partial disability becomes totally and permanently disabled by an industrial injury. (RSA, Chapter 281, Section 47) Latent impairments, such as epilepsy, are not covered by the Fund. (Letter, Department of Labor, November 21, 1960)

The Labor Commissioner is authorized to approve waivers of compensation rights by persons with physical defects who desire to enter into employment contracts. The physical defect must impose upon the prospective employer a "further or unusual hazard". The waiver is applicable to injury or death attributable "in a material degree" to such defect. (RSA, Chapter 281, Section 12-a)

NOTE: Information on the legal rights of persons with epilepsy in New Hampshire was provided through the courtesy of the National Center for Law and the Handicapped, Inc.

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment, property, housing, and places of public accommodation. The law specifically cites epilepsy as included under the definition of "physical handicap". (Section 5 of P.L. 1948, c.169 (C.10:5-5))

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The statute authorizes the director to impose reasonable restrictions and conditions in light of the applicant's physical condition and to prescribe appropriate tests. (1961 Statutes, Title 39, Chapter 39, Section 11) A regulation of the Division of Motor Vehicles which went into effect on June 14, 1960, provides that a person who has suffered from convulsive seizures, blackouts or epilepsy, may be licensed when he has been seizure-free for two years with or without medication. The results of an electroencephalographic examination and a favorable prognosis by the individual's physician and the Advisory Council of the New Jersey Consultation Service for Convulsive Disorders must report the application for the issuance or reinstatement of a license. The applicant must, in addition, agree to submit additional reports from his physician at six-month intervals, a a condition of restoration or issuance of a license. (Letter, Division of Motor Vehicles, August 31, 1962; Division of Motor Vehicles Regulation, June 14, 1960)

Persons subject to above symptoms shall report the existence of such conditions to the Director at the time of initial application for a driver's license or for subsequent renewal applications. (1970 Statute, Title 39, Chapter 3, Section 10.5) There are provisions for appeal in cases of denial or revocation of license.

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

NEW JERSEY

REPORTABILITY

Physicians must report treatment of persons "for recurrent convulsive seizures or for recurrent periods of unconsciousness or for impairment or loss of motor coordination due to conditions such as, but not limited to, epilepsy when such conditions persist or recur despite medical treatments..." Reports will be made within 24-hours after determination to the Director of the Division of Motor Vehicles. (1970 Statute, Title 39, Chapter 3, Section 10.4)

SPECIAL EDUCATION

The law states that it is the duty of each Board of Education to provide special education programs and services for all handicapped children. Epilepsy is not specifically cited in the statutes. (NJSA 18A:46-1 et seq.) Those with epilepsy requiring special education fall under the category of neurological impairment.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

Identification for persons not eligible for drivers' licenses is available through the county via the Bureau of Alcohol Control.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is available only if the combined disabilities from the first and second injuries result in total and permanent disability. The Fund is not available where the permanent total disability results from the aggravation, activation, or acceleration by the last compensable injury of a pre-existing noncompensable disease or condition. (1961

Statutes, Title 34, Chapter 15, Section 95) The opinion has been expressed that the previous permanent partial disability could consist of a condition such as epilepsy and be covered. (Letter, Department of Labor and Industry, Division of Workman's Compensation, December 14, 1960)

NEW MEXICO

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment and places of public accommodation.

ARREST/SEARCH

The state does require law enforcement officials to search for emergency medical identification on individuals subject to arrest. Whenever feasible, this is to be done before the individual is charged with a crime. (NMSA 12-31-3)

DRIVERS' LICENSES

The Commissioner of Motor Vehicles may withhold issuance of a permit "when (he) has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare". (Laws 1963, Chapter 299, Section 63-13-40) This law, effective June 7, 1963, replaced an earlier statute which contained an outright ban against issuance of a permit to persons with epilepsy. Under the new statute, epileptics denied a license may petition for a hearing before a medical advisory committee established and "conducted in a manner determined by the commissioner and the Department of Public Health". The new statute allows "epileptics to be licensed at the discretion of the commissioner. If doubt exists, the commissioner or the applicant may request a review of the case, by a medical advisory committee. (Letter, June 5, 1963, Counsel, State Judicial System Study Committee, Twenty-sixth Legislature) (Sections 64-13-40- and 64-13-40.1, NMSA 1953 Comp.)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

NEW MEXICO

SPECIAL EDUCATION

The state requires school districts to provide for the special education needs of all exceptional children. Epilepsy is not mentioned specifically. (NMSA Sections 77-11-3 and 77-11-3.1)

STATE CERTIFICATION

Information not available.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

A statutory provision permits an employer to require a prospective employee to certify the existence of any pre-existing disabilities for the purpose of limiting the extent of the employer's liability arising out of an industrial accident. (Section 59-10-37, New Mexico Statutes Annotated, 1953 Compilation)

The Subsequent Injury Fund is applicable in the case of an employee "who has a permanent physical impairment and who incurs a subsequent disability by accident arising out of and in the course of his employment, which results in a permanent disability that is materially and substantially greater than that which would have resulted from the subsequent injury alone". (Section 59-10-134, NMSA, 1953 Comp.)

NEW MEXICO

As used in this Subsequent Injury Act "permanent physical impairment" means a permanent physical condition which is, or which is likely to be, an obstacle to employment... (Section 59-10-128, NMSA, 1953 Comp.)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes contain antidiscrimination provisions for the handicapped in the areas of employment, housing, property ownership, and places of public accommodation. Regarding employment, the law covers hirings, wages, promotions, layoffs, union memberships, and training programs. (Human Rights Law, Executive Law Section 296, 1974 Amendment)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical information on persons subject to arrest.

DRIVERS' LICENSES

To be eligible for licensing, persons subject to "spells and seizures", including persons with epilepsy, must be free of such, with or without medication, for a period of at least one year.

Statements are ordinarily required from both the family physician and a specialist relating to the applicant's condition and expressing opinions on his driving ability. The applicant must stipulate that he will submit periodic medical reports, and if he chooses, may stipulate that these reports will be from his specialist. If he stipulates that the reports will come from his specialist, he may omit the usual family physician's letter. However, subsequent reports must be from the designated specialist or will not be accepted. There is no longer a stipulation regarding refraining from the use of alcoholic beverages, although such abstinence is encouraged.

Persons who have taken no medication for a period of three years and still remain free of spells and seizures, may be released to the general category without need for further periodic medical reports. For special licenses such as chauffeurs' licenses, the above criteria are altered in that a person taking medication cannot be a holder of a class 1 and 2 chauffeur's license, but must be free of spells and seizures for a period of two years before he can hold such a license. Applicants or holders of class 3 or unclassified chauffeur's license are treated similarly to those who hold operators' licenses. There is no time limit during which holders of chauffeurs' licenses are required to submit the medical letters on request. This requirement may continue indefinitely. (Letter, Department of Health, November 5, 1971)

NEW YORK

In addition to informal appeals, which are always allowed, the statute (510.6) specifically provides that any revocation or suspension under Section 510 is reviewable by the Supreme Court. (Letter, Department of Motor Vehicles, August 29, 1962)

INSTITUTIONALIZATION

New York State Mental Hygiene Law, Section 25, specifically mentions epilepsy. The statutes concern admitting procedures.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy per se is not required to be reported to state agencies. Education Law, Section 4402, provides the state education department with the power and duty to maintain a register of handicapped children and to use all means necessary to adequately meet the physical and educational needs of such children, as provided by law.

SPECIAL EDUCATION

Statutes make provisions for special education programs for handicapped children, although epilepsy is not specifically cited in the law. Education Law, Section 4404, provides that "the board of education of each city and of each union free school district shall be required to furnish suitable educational facilities for handicapped children by means of home teaching, transportation to school or by special classes. The need of the individual child shall determine which of such services shall be rendered." The Education Law, Section 4401, states that a "handicapped child is one who, because of mental, physical, or emotional reasons, cannot be educated in regular classes but can benefit by special services and programs to include, but not limited to, transportation, the payment of tuition to boards of cooperative educational services and public school districts, home teaching, special classes, special teachers, and resource rooms."

STATE CERTIFICATION

No information available.

STATE EDUCATION

No information available.

NEW YORK

STATE EMPLOYMENT

No information available.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund (or "Special Disability Fund") is available if an employee "...who has a total or partial loss or loss of use of one hand, one arm, one foot, one leg or one eye, or who has other permanent physical impairment... incurs a subsequent disability by accident arising out of and in the course of his employment or an occupational disease arising therefrom... resulting in a permanent disability caused by both conditions that is materially and substantially greater than that which would have resulted from the subsequent injury or occupational disease alone..."

"As used in this subdivision 'permanent physical impairment' means any permanent condition due to previous accident or disease or any congenital condition which is or is likely to be a hindrance or obstacle to employment." (1961 Annotated Laws, Compensation Law, Article 2, Section 15(8)) The employer must have employed or continued to employ the physically handicapped person knowing of the handicap if the Fund is to be involved. (Letter, Workmen's Compensation Board, August 24, 1962)

NOTE: Information on the legal rights of persons with epilepsy in New York was provided through the courtesy of the National Center for Law and the Handicapped, Inc.

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment and places of public accommodation. (GSNC, Chapter 168) Handicapped persons shall be employed in the state service, the service of political subdivisions, in public schools, and in all other employment, both public and private, on the same terms and conditions as the able-bodied, unless it is shown that the particular disability impairs the performance of the work involved. (§ 168-6)

Handicapped persons are also guaranteed the right to use public accommodations and places. (§ 168-2 and 3)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest, although it is reported that it is done as a matter of practice.

DRIVERS' LICENSES

The Department of Motor Vehicles must refuse a license where physical or mental disability or disease may prevent the applicant from exercising reasonable and ordinary control over a motor vehicle. (Section 20-9 (e))

Denial or revocation of license is appealable to a court. (Section 20-25)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

NORTH CAROLINA

SPECIAL EDUCATION

A 1974 law requires the state to develop a system of educational opportunities for all children with special needs and that the State prevent denial of equal educational and service opportunity on the basis of physical, mental, social, or emotional hardicap. Epilepsy is not specifically mentioned. (1973 Session Law Chapter 1293, effective July 1, 1974)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (1971 Law)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund benefits are available only for specified types of injuries and conditions. (1961 General Statutes, Chapter 97, Section 40.1) Epilepsy is not covered. (Letter, Industrial Commission, October 19, 1960)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

The statute requires a law enforcement officer to search an unconscious, semi-conscious, or incoherent person for medical identification to determine whether the person has epilepsy or another illness which would cause the condition and to obtain necessary medical services. (NDCC 23-28)

DRIVERS' LICENSES

The statute prohibits the licensing of persons who have physical or mental disabilities which may make them unsafe drivers. (1961 Code, Title 39, Section 06-03) The privilege is granted to persons with histories of epilepsy who personal physicians certified the condition is controlled. (Letter, Highway Department, September 28, 1960) A medical board reviews all questionable cases and makes recommendations to the Division of Safety Responsibility. (Letter, State Bar Association, March 24, 1965) Denial or revocation of license is generally appealable to a court. (Section 06-39)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Statutes authorize special education for exceptional children. The definition of "exceptional children" does not specifically mention

physical handicap or epilepsy. Special education services must be implemented by 1980. (NDCC 15-50-04)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do inquire as to a past or present history of seizure disorders.

STATE EMPLOYMENT

No information available.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

A statutory provision relates to pre-existing injury or disease: "In case of aggravation of an injury or disease existing prior to a compensable injury, compensation...shall be allowed...only for such proportion of the disability...arising from the aggravation of such prior disease or injury as reasonably may be attributable to such compensable injury..." (1961 Code, Title 65, Section 05-15)

The Subsequent Injury Fund is applicable, "Whenever a subsequent injury or aggravation of a previous injury or pre-existing condition occurs to an employee", or, "Whenever such subsequent injury or aggravation results in further disability or an aggravation of a pre-existing injury or condition." (N.D. Century Code 65-04-18)

Should an epileptic be injured in the course of his employment as a result of an epileptic seizure he is fully covered within the provisions of the Workmen's Compensation Act. (Letter, Workmen's Compensation Bureau, September 12, 1962)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do contain antidiscrimination provisions for the handicapped in the areas of employment, property ownership, housing, and places of public accommodation. Epilepsy is not specifically cited in the law.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The Ohio statute provides for six month licenses for persons whose epilepsy is either dormant or under medical control. The statute reads, in part: "A restricted license effective for six months may be issued to any person otherwise qualified who is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and whose condition, in the opinion of the registrar, is dormant or is sufficiently under medical control that he is capable of exercising reasonable and ordinary control over a motor vehicle. A restrictive license, effective for six months, shall be issued to any person who is otherwise qualified who is subject to any condition which causes episodic impairment of consciousness or a loss of muscular control if such person presents a statement from a licensed physician that his condition is under effective medical control and the period of time for which such control has been continuously maintained, unless, thereafter, a medical examination is ordered and, pursuant thereto, cause for denial is found. If cause for denial because of such condition is found and the period during which such condition was stated by a physician to have been under effective control was at least one year, the applicant has the right to a hearing before a review board..."

"Each board shall consist of three members and one or more of the members of each board shall be a physician qualified in the diagnosis and treatment of episodic disorders of consciousness or muscular control."

If the applicant provides a medical statement of control of seizures, and the registrar denies a license, the review board functions, as provided by the following: "In determining whether a person's condition is such that he can exercise reasonable and ordinary control over a motor vehicle while operating it upon the highways, due consideration shall be given to the extent and duration of medical control of the condition, whether the person may be depended upon to continue medication if continued medication is prescribed and all other relevant, competent, and material evidence."

OHIO

"The review board, after a hearing...shall approve, or reverse the decision of the registrar of motor vehicles and may order the issuance of a regular license or a restricted license effective for six months..."

"After a restricted license, effective for six months has been issued pursuant to the order of a review board, successive restricted six months' licenses may be issued by the registrar of motor vehicles upon receipt of a written statement of the applicant's attending physician that the applicant's condition has been continuously under medical control during the preceding six months and that he recommends a six months' extension of the license subject to continuation of treatment and re-examination by a physician within six months."

If the applicant presents such statement, a license shall not be denied because of such condition unless a medical examination is undertaken and cause for denial of the license is found. If cause for denial because of such condition is found, the provisions of this section for notice and hearing before a review board shall apply." (1965 Ohio Revised Code, Section 4507.08)

Denial or revocation of a license is generally appealable to a court. (1965 Ohio Revised Code, Section 4507.08)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for special education programs for handicapped children, although epilepsy is not specifically mentioned.

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

OHIO

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Persons with epilepsy are specifically covered by the Second Injury (or Handicapped Workers') Fund. The next result of pre-existing impairment, such as epilepsy, and the accident must be either death, temporary or permanent total disability, loss or loss of use of a member or eye, loss of hearing, or...serious facial or head disfigurement which either impairs or may in the future impair the opportunities to secure or retain employment. The Fund can be invoked in two types of cases. Where the injury aggravates the pre-existing impairment, the Fund is liable for that portion of disability or cost of death attributable to the pre-existing condition; and where the second injury would not have occurred but for the pre-existing condition, the Fund is liable for all the disability or death payments. (1965 Ohio Revised Code, Sections 4123.343 and 4123.57)

NOTE: Information on the Legal Rights of Persons with Epilepsy in Ohio was provided by the Epilepsy Association of Ohio.

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The statutory provision (Section 6-103 of Title 47) prohibits the issuance of a license... "To any person, who is physically deformed or who is afflicted with mental disease or physical condition that would impair the driving ability of such a person when the Commissioner of Public Safety from information concerning such person or from the records and reports on file in the Department of Public Safety, determines that the operation of a motor vehicle by such a person on the highways would be inimical to public safety or welfare." (Letter, Department of Public Safety, October 30, 1961)

"Whenever the Department is furnished with information or from the records on file in the Department of Public Safety, it is established that the holder of an operator's or chauffeur's license is afflicted with epilepsy...the Department may in its discretion execute an order of cancellation of any operator's...license issued to such individual, or should such information be available at the time of application for a chauffeur's or operator's license... Any operator or chauffeur whose license has been cancelled...shall have the right of appeal..." (47.O.S. § 6-207 (1971))

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

OKLAHOMA

SPECIAL EDUCATION

A school district is authorized to provide suitable special education programs for exceptional children. Epilepsy is not specifically mentioned in the statute. (70.O.S. § 13-103)

STATE CERTIFICATION

No information available.

STATE EDUCATION

No information available.

STATE EMPLOYMENT

No information available.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Institutionalized persons with epilepsy are subject to sterilization. (1959 Statutes, Title 43A, Section 341)

WORKERS' COMPENSATION

Second Injury Fund benefits are available where the worker has a previous impairment, regardless of its cause. The net effect of the previous disability and the "second injury" need be only partial (not total) permanent disability. (1959 Statutes, Title 85, Sections 171, 172)

The previous impairment must be loss or loss of use of a member or eye or other impairment which has previously been adjudged and determined by the Industrial Court and the impairment must be obvious and apparent from observation by the ordinary layman. Other types of prior disability could be covered by judicial ruling of the Industrial Court. (Letter, Industrial Court, October 20, 1960)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

"A license cannot be issued to any person when in the opinion of the Division of Motor Vehicle such person is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when such person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the highways." (Letter, Board of Health, April 7, 1965) Denial or revocation of license is generally appealable to a court. (Chapter 482.490)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

All persons authorized by the State of Oregon to diagnose and treat disorders of the nervous system shall report immediately to the State Board of Health every person over the age of 14-years diagnosed as having a disorder that is, or may become chronic.

Reports required under this section shall be upon forms prescribed or provided by the State Board of Health, which shall publish names of the disorders to be reported. Each report shall include the person's name, address, date of birth, sex, and the name of the disorder. (ORS 482-141)

OREGON

On or before the 5th day of each month the State Health Officer shall forward to the division a copy of each report or a list of the information in all reports received in the preceding calendar month. The reports are confidential and shall be used by the division only to determine the qualifications of persons to operate motor vehicles upon the highways. (1971 ORS 431.130, Section 3) ORS 482.240 gives a person the right to be examined by his own physician with the report forwarded to the State Health Officer for review and recommendation. (Letter, Board of Health, September 5, 1962; also April 7, 1965)

SPECIAL EDUCATION

Subject to the approval of the Superintendent of Public Instruction, the district school board must provide special education for handicapped children. Epilepsy is not specifically mentioned in the definition of handicapped children. (ORS 343-212 et seq.)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do inquire as to a past or present history of seizures. The information is used for student health services. Epilepsy might affect admission to University of Oregon Medical School.

STATE EMPLOYMENT

Concerning state employment, an optional medical history form is available to state agencies. Some use it, while others do not. The Highway Department is the largest user.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (ORS 482.900)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

OREGON

WORKERS' COMPENSATION

The Workmen's Compensation Board administers a Second Injury Fund program to relieve employers of costs attributable to pre-existing disabilities. Epilepsy causing an industrial injury to the person with epilepsy or to a fellow workman would undoubtedly qualify.

Under court decisions, an epileptic whose injuries are due to a seizure while working in a place which contributes to injury would probably have a compensable claim. For example, a fall from a height or into machinery precipitated by epileptic seizure would be compensable due to the positional risk. (Letter, Workmen's Compensation Board, September 20, 1971)

PENNSYLVANIA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do contain antidiscrimination provisions for the handicapped or disabled. (Act of the General Assembly No. 318, approved December 19, 1974) The Pennsylvania Human Relations Commission approved the following definition of handicapped and disability: "A physical or mental impairment, including mental retardation and mental and/or emotional illness, resulting from injury, illness, congenital or developmental condition, or the regarding of a person as having such an impairment, provided, however, that in all provisions of this article dealing with employment, the terms shall be limited to non-job related handicap or disability.

EXAMPLES: A handicap or disability includes, but is not limited to, any degree of paralysis, amputation, lack of physical coordination, malformation, disfigurement, blindness or visual impairment, deafness or hearing impairment, muteness or speech impediment, epilepsy, cancer, reliance on a seeing eye dog, wheelchair, or other remedial appliance or device, mental retardation, mental and/or emotional illness, being under the care of a psychiatrist or psychologist or drug or alcohol abuse dependence.

The statute includes the areas of employment, housing, and places of public accommodation.

ARREST/SEARCH

The state does require law enforcement officials to search for emergency medical identification on individuals subject to arrest. (35 Purdon's Pa. Statutes 10011)

DRIVERS' LICENSES

"Adjudged epileptics" cannot be licensed until restored to competency by judicial decree or certified competent by a hospital superintendent or until the Secretary is satisfied such a person is competent to operate a motor vehicle with safety. (1961 Statutes, Title 75, Section 604) Medical examinations are given applicants pursuant to 1961 Statutes, Title 75, Section 608. One year freedom from attack with or without medication for those persons other than 16 to 18-years of age is required for licensing of a person with a history of epilepsy. (Letter, Department of Revenue, Bureau of Traffic Safety, June 2, 1975; Letter, Department of Health, October 17, 1960) Denial or revocation of license is generally appealable to a court. (Section 620)

PENNSYLVANIA

INSTITUTIONALIZATION

Ralph A. Forsythe, "The Legal Status of the Epileptic Child in the Fifty States of the U.S.", March, 1970, lists the following citations relating to epilepsy in Pennsylvania legislation: Parental Financial Support for Institutionalized Children (Title 50, Section 1401): Collection of Money for Institutionalized Children by Department of Public Welfare (Title 50, Section 603)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes no unique provision for special education programs for children with epilepsy whose conditions prevent regular class attendance. Epilepsy is in the developmental disability category. The philosophy of mainstreaming is practiced, i.e., attendance in regular classrooms is encouraged whenever possible.

STATE CERTIFICATION

No information available.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

PENNSYLVANIA

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost or lost the use of a member or eye and become permanently and totally disabled by the loss or loss of use of another member or eye. (1961 Statutes, Title 77, Section 516) There is no provision in the Second Injury Fund for persons with epilepsy. (Letter, Department of Labor and Industry, October 20, 1960)

RHODE ISLAND

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the area of employment. Epilepsy is specifically mentioned in the legislation. (Chapter 5 of Title 28 of G.L. of RI, 1956)

ARREST/SEARCH

No information available.

DRIVERS' LICENSES

There are no specific regulations governing the licensing of persons with epilepsy. Generally, a license cannot be issued to a person who, because of mental or physical disability, may not be able to operate a motor vehicle with safety upon the highways. (1960 Laws, Title 31, Section 10-3; also Letter, Registry of Motor Vehicles, April 7, 1965) Denial or revocation of license is generally appealable to a court. (Sections 11-25)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

No information available.

SPECIAL EDUCATION

The state makes provisions for special education programs for handicapped children. Epilepsy is not specifically mentioned in the statutes. (Chapter 24 of Title 16 of G.L. of RI, 1956 (1969 Reenactment))

RHODE ISLAND

STATE CERTIFICATION

No information available.

STATE EDUCATION

No information available.

STATE EMPLOYMENT

No information available.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost the use of a member or eye and become permanently and totally disabled by the loss or loss of use of another member or eye. (1960 Laws, Section 28-37-4)

SOUTH CAROLINA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

The state does require law enforcement officials to search for emergency medical identification on persons subject to arrest, and no person with epilepsy can be placed in jail because of that condition.

DRIVERS' LICENSES

The statute prohibits the licensing of persons who, because of physical or mental disabilities, would not be safe drivers. Examinations may be ordered to determine capabilities. (1962 Code, Title 46, Sections 154 (4) and 154 (5). A person with epilepsy required to furnish semi-annual medical statements as a condition to his privilege to drive. (Letter, Highway Department, September 14, 1960) Denial or revocation of license is generally appealable to a court. (Section 187)

INSTITUTIONALIZATION

Courts can commit children with epilepsy to suitable institutions when, after proper examination, it is deemed in their best interest. Parents or custodians must be given an opportunity for a hearing. (15-1422) Medical or surgical care of such children will be ordered by the court, when necessary, at the expense of the county or appropriate subdivision. (15-1423)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Statutes make provisions for special education programs for handicapped. Epilepsy is not specifically cited.

SOUTH CAROLINA

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

The statute permits the sterilization of institutionalized people with epilepsy. (1962 Code Title 32, Section 671, et seq.)

Sterilization has not been ordered for persons with seizures who did not also suffer from a mental condition. (Letter, Board of Health, January 10, 1961)

WORKERS' COMPENSATION

Second Injury Fund benefits are available to an employee who...has a permanent disability or has sustained a permanent injury in...(The Armed Forces)...or in another employment other than that in which he receives a subsequent permanent injury by accident... (1962 Code, Title 72, Sections 189 and 166)

The Second Injury Fund has been described as "almost nonexistent" because its source of revenue has been almost legislated away. It is also observed that although latent impairments are not specifically excluded from the provisions of the Fund, it must first be determined that the first injury was compensable. (Letter, Industrial Commission, October 18, 1960)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The Department of Motor Vehicles will not issue a license to any person previously adjudged to be afflicted with or suffering from any mental disability or disease and who has not been restored to competency by methods provided by law. (SDCL 1967, 32-12-32) The Department may also withhold licensing of any person whose driving would be inimical to the public interest. (1967, 32-12-35) Denial or revocation of license is generally appealable to a court. (1967, 32-12-59)

INSTITUTIONALIZATION

Statutes provide for the reimbursement to state facilities for the care and treatment of certain developmentally disabled persons. Epilepsy is specifically cited in the definition of developmentally disabled. (Senate Bill No. 64, Enacted 1975)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Statutes provide for special education programs for children requiring these programs. Epilepsy is not specifically mentioned in the laws. (SDCL 13-37-1)

SOUTH DAKOTA

STATE CERTIFICATION

No information available.

STATE EDUCATION

No information available.

STATE EMPLOYMENT

No information available.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (Session Law 1974, Chapter 231)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost or lost the use of a member or eye and become permanently and totally disabled by the loss or loss of use of another member or eye. (1967, 62-4-34)

TENNESSEE

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

The Commissioner cannot issue a license to a person he believes would be an unsafe driver by reason of physical or mental disabilities. (Section 59-705, Tennessee Code Annotated) Licenses are issued to persons with epilepsy if it is medically established that their conditions are under control. (Letter, Department of Safety, September 14, 1960) Denial or revocation of license is generally appealable to a court. (Section 59-713 (r), Tennessee Code Annotated)

INSTITUTIONALIZATION

Statutes on admission to institutions do not mention epilepsy as a reason for involuntary commitment. The superintendent of a juvenile institution, with the approval of the Commissioner of Corrections, may transfer a juvenile with epilepsy to an appropriate agency for his care. (TCA § 41-834)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Statutes mandate the provision of special education services for the handicapped. Epilepsy is not specifically cited in the laws. (Tennessee Code Annotated § 49-2912 et seq.)

TENNESSEE

STATE CERTIFICATION

State certification boards do not inquire whether a candiate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire whether there is a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost or lost the use of a member or eye and become permanently and totally disabled by the loss or loss of use of another member or eye. (Section 50-1027, Tennessee Code Annotated)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has an antidiscrimination provision for the handicapped concerned with the use of public facilities. (Texas Rev. Stat. Ann. 4419e, Supl. 1974)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Generally, a license cannot be issued to a person who has a physical or mental disability which will prevent him from being a safe driver. (1961 Revised Civil Statutes, Title 116, Section 6687b-(8)) Regarding persons with epilepsy, a license may be issued if verification is obtained from a competent licensed physician that the condition is under control by medication and the applicant is considered capable of safely operating a motor vehicle. (Letter, Department of Public Safety, September 19, 1960) Another statutory provision declares it unlawful for a person "who is an epileptic" (presumably adjudged) to operate a motor vehicle, and requires any court finding a person to be an epileptic to revoke his license. (1961 Revised Civil Statutes, Title 116, Section 6687b (30)) Denial or revocation of license is generally appealable to a court. (Section 6687b(31))

INSTITUTIONALIZATION

Statutes on admission to state institutions do mention epilepsy. The definition of mental illness does not include epilepsy, and admission to institutions is not affected by a seizure disorder. (Texas Rev. Stat. Ann. 5547-5)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

TEXAS

SPECIAL EDUCATION

The state makes provision for special education programs for handicapped children. Epilepsy is not specifically cited in the statutes.

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of seizures. The question is asked on the health form which all accepted students are required to complete.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (Texas Rev. Civ. Stat. Ann. 6687 B § 149)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund coverage is available only to persons who have previously lost or lost the use of a member or eye and become permanently and totally disabled by the loss or the loss of the use of another member or eye. In subsequent injury cases not covered by the Second Injury Fund, the ordinary Workman's Compensation Fund is liable only for the disability the subsequent injury would have caused the injured employee had there been no previous injury. (1961 Revised Civil Statutes, Title 130, Section 8306-12c)

ADOPTION

The statutes provide for the annulment of adoption if within five years after the adoption the child develops epilepsy as a result of conditions existing prior to adoption of which the adopting parents were unaware. (UCA 78-30-13)

ANTIDISCRIMINATION

The statutes provide for full access by the "blind, visually handicapped or otherwise physically disabled" to public facilities and accommodations. Discrimination against the handicapped in employment is prohibited in jobs supported by public funds. Epilepsy is not specifically cited. (UCA 26-28-1 and 26-28-3)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

Any person with epilepsy who is otherwise qualified to operate a motor vehicle can be issued a "temporary" license upon receipt by the Division of Drivers' Licenses of the Department of Public Safety of a statement by a physician attesting that the applicant has had a physical examination. This medical certificate must indicate if the applicant has had seizures in the previous twelve (12) months. The certificate must be presented to the Division annually, and must contain a recommendation by the physician. However, the Department is not bound by the physician's recommendation. (UCA 41-2-33 et seq.)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

UTAH

SPECIAL EDUCATION

Statutes provide for special schools and classes for children between the ages of 8 and 18 who are not receiving education adapted to their special needs. Epilepsy is not specifically mentioned as a condition requiring special services. (UCA 53-26-1 and 2)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of seizures.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has or has had epilepsy.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Statutes authorize the sterilization of institutionalized or adjudged epileptics. (1961 Code, Section 64-10-1 et seq.) This statute is not applied where the person with epilepsy does not also suffer from some mental condition in addition to epilepsy. (Letter, Department of Public Health, October 21, 1960)

WORKERS' COMPENSATION

The Second Injury Fund is available "if an employee who has physically incurred permanent partial disability incurs a subsequent permanent partial disability such that the compensation payable for the disability resulting from the combined injuries is greater than the compensation which, except for the pre-existing disability, would have been payable for the latter injury..." (1961 Code, Section 35-1-69) However, it is reported that the statute is interpreted to apply only where the

second injury did not aggravate the pre-existing condition. A claimant with disabling epilepsy could be placed on the Second Injury Fund payroll if the injury did not aggravate the epilepsy. The Industrial Commission is attempting to eliminate the aggravation theory through the process of legislation, but so far has been unsuccessful. (Letters, Industrial Commission and Utah Labor Relations Board, October 19, 1960 and October 17, 1961)

VERMONT

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The statute prohibits "unreasonable discrimination" by any employer, employment agency or labor organization against any physically handicapped person. Epilepsy is not specifically cited. (21 VSA § 498)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on individuals subject to arrest.

DRIVERS' LICENSES

Generally, the Commissioner has discretion to refuse licenses to persons he has reason to believe are physically and mentally unfit to qualify as safe drivers, and medical examinations may be ordered to determine the applicant's fitness. Restricted licenses may be issued. (1959 Statutes Title 23, Section 603, 612, 636 and 637) The State Library reports that persons with epilepsy must be seizure-free for eighteen (18) months before being issued licenses. Also, it might be noted on a restricted license whether the licensee is under medication. (Letter, Motor Vehicle Department, September 13, 1960)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The statute mandates, within the limits of available funds, the provision of special education facilities and programs for handicapped children.

VERMONT

Parents or guardians who allege that necessary special education is not being provided may petition the State Board of Education. Epilepsy is not specifically cited in the definition of handicapped children. (16 VSA § 2942 and 2944)

STATE CERTIFICATION

State certification boards do not inquire whether the candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of seizures.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for individuals not eligible for drivers' licenses

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is available only to persons who have previously lost or lost the use of a member or eye and become permanently and totally disabled by the loss or loss of the use of another member or eye. (1959 Statutes, Title 21, Section 683)

VIRGINIA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the physically handicapped in the area concerned with access to places of public accommodation. Epilepsy is not specifically cited in this statute. (Code of Virginia § 2.1-109.01 et seq.)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

"Adjudged epileptics" cannot be licensed until restored to competency by judicial decree or released from a mental institution upon certification of competency by the Superintendent. Generally, licenses are issued to persons with epilepsy only upon condition that the holder furnish at periodic intervals a satisfactory physician's statement of his medical condition. The requirement is shown on each license in the form of a restriction notation, but does not refer to the licensee's seizure condition. (Letter, Division of Motor Vehicles, September 13, 1960) Denial or revocation of license is generally appealable to a court. (Section 46.1-367)

INSTITUTIONALIZATION

Statutes on admission to state institutions do not specifically mention epilepsy.

MARRIAGE

Marriage of persons with epilepsy is not restricted.

REPORTABILITY

At least 10 days, if practicable, prior to the time when any (epilepsy) patient is released from any state operated or licensed institution, the responsible medical officer shall report to the commissioner, in sufficient detail for accurate identification, the date of release of

such patient, together with a statement concerning his ability to operate a motor vehicle. (Letter, Department of Mental Hygiene and Hospitals, March 29, 1965)

Administrators of state institutions also are required to report to the Division of Motor Vehicles the admission of every patient. (1960 Code Section 46.1-429; and Letter, Department of Health, October 17, 1960)

SPECIAL EDUCATION

The statutes require each school division to provide special education to handicapped children. If appropriate education is not available within the division or no State service is found, the parents or guardians of handicapped children can be reimbursed for three-fourths of the tuition cost at a private nonsectarian school approved by the Board of Education. Certain payment ceilings exist. (Code of Virginia § 22-9.1:04 and § 22-10.3 et seq.)

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire whether the candidate has or has had epilepsy.

STATE EMPLOYMENT

The application for state employment does not inquire as to a past or present history of seizures.

STATE IDENTIFICATION

The state does not provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

VIRGINIA

WORKERS' COMPENSATION

Virginia has no Second Injury Fund. However, if an employee has a "permanent disability" and receives a subsequent permanent injury by accident, "he shall be entitled to compensation only for the degree of incapacity which would have resulted from the later accident if the early disability or injury had not existed." (1950 Code, Section 65.1-58 amended)

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment, property ownership, housing, and places of public accommodation. Epilepsy is not specifically cited in the statute. (RCW 49-60-030)

It is hereby declared to be an unfair act or practice to discriminate in the provision of any program or course of instruction or training on the basis of race, creed, color, national origin, sex, marital status, age, or the presence of any sensory mental or physical handicap. (18.82.080)

The right to be free from discrimination because of race, creed, color, national origin, sex, marital status, age, or the presence of any sensory, mental, or physical handicap is recognized as and declared to be a civil right. (49.60.030)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on individuals subject to arrest.

DRIVERS' LICENSES

Statutes state that "the department (of motor vehicles) shall not issue a driver's license hereunder...to any person when the department has good and substantial evidence to reasonably conclude that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; subject to review by a court of competent jurisdiction." The department will issue restricted operators' licenses should the person suffering from the physical or mental disability or disease personally demonstrate his ability to drive safely a motor vehicle and confirm such ability through a certificate of physical examination signed by a physician, should such be necessary. Certificate must indicate whether the applicant has had his condition controlled for at least six months. (RCW 46.20.031 and 46.20.041) Denial or revocation of license is generally appealable to a court. (1961 Code, Section 46.20.340)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

WASHINGTON

MARRIAGE

Marriage of persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for special education programs for handicapped children. Epilepsy is not specifically cited in the statutes. (RCW 28A.13)

The Board of Directors of each school district, for the purpose of compliance with the provisions of this chapter (RCW 28A.24.100 and 28A.41.053) shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity and give other appropriate aid and special attention to handicapped children in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW 28A.13.045 or shall participate in an interdistrict arrangement in accordance with RCW 28A.58.075 and 28A.58.240 and/or 28A.58.245 and 28A.58.250. (28A.13.030)

STATE CERTIFICATION

Some state certification boards do inquire as to a past or present history of seizures.

STATE EDUCATION

The state's public higher education application does inquire as to a past or present history of epilepsy. The information obtained does not affect admission, but is used with the pre-admission physical examination required of accepted students.

STATE EMPLOYMENT

The application for state employment ask for medical information. Medical information is solicited in a pre-employment health questionnaire.

STATE IDENTIFICATION

The state provides identification cards for citizens not eligible for drivers' licenses.

WASHINGTON

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund is available "whenever a workman has sustained a previous bodily infirmity or disability from any previous injury or disease and shall suffer further injury or disease in employment covered by this title and become totally and permanently disabled from the combined effect thereof..." (1961 Code, Section 51.16.120)

WEST VIRGINIA

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

West Virginia statutes make it unlawful to discriminate against blind people in areas of employment, property ownership, housing, and places of public accommodation. Epilepsy, handicapped, disability, or physically disabled are not mentioned. (§ 5-11-2 et seq., West Virginia Code, 1973 Amendment)

ARREST/SEARCH

It is the opinion of the Attorney General (December 10, 1974) that "a law enforcement officer may not take into custody an individual whose behavior indicates that he may be suffering from mental illness, mental retardation, or addiction, without first obtaining an order for custody for medical examination from the circuit court or mental hygiene commissioner in the instance where there does not exist a valid certification by at least one physician that he has examined the individual."

DRIVERS' LICENSES

Chapter 17 of the West Virginia Code Section 17 B-2-3(8) provides that the Department of Motor Vehicles shall not issue a license to "any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety."

Chapter 17, West Virginia Code, Section 17 B-2-7(b) provides that the Commissioner of the Department of Motor Vehicles "shall adopt and promulgate regulations concerning the examination of applicants..." Regulations require that the person in question submit an affidavit stating that he has been seizure-free for at least two years. In addition, his physician must certify that seizures are controlled by medication and that "future attacks are with a reasonable degree of certainty unlikely." (Administrative Regulations, Department of Motor Vehicles, Chapter 17A-2, Series V, 1964)

On denial or revocation of license, the individual may request a hearing which is conducted by the Department of Motor Vehicles. (Letter, Department of Motor Vehicles, September 28, 1962)

INSTITUTIONALIZATION

Statutes on admission to institutions do not specifically mention epilepsy.

WEST VIRGINIA

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Epilepsy is not specifically mentioned in the law, but § 18-20-1 West Virginia Code provides for educating exceptional children (including the handicapped and the gifted) who differ from normal in physical, mental or emotional characteristics. Additionally, vocational education and work adjustment programs are provided by the state for disadvantaged individuals. Disadvantaged individuals means disabled individuals (any person who has a substantial employment handicap)...disadvantaged by reason of youth, age, low educational attainment, ethnic or cultural factors, prison or delinquency records, or other conditions which constitute a barrier to employment. (§ 18-10A-1 et seq., West Virginia Code)

STATE CERTIFICATION

No information available. No statutory provisions.

STATE EDUCATION

No information available. No statutory provisions.

STATE EMPLOYMENT

No information available. No statutory provisions.

STATE IDENTIFICATION

The state has no statutory provision for issuing identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WEST VIRGINIA

WORKERS' COMPENSATION

Chapter 23 of the West Virginia Code, Section 4-96 provides that where an employee has a definitely ascertainable physical impairment, and such employee shall thereafter receive an injury in the course of and resulting from his employment...unless such injury results in total permanent disability...such physical impairment, and the effect thereof and an aggravation thereof, shall not be taken into consideration in fixing the amount of compensation allowed by reason of such injury, and such compensation shall be awarded only in the amount that would have been allowable had the employee not such pre-existing physical impairment.

NOTE: This information on the legal rights of persons with epilepsy was provided through the courtesy of the National Center for Law and the Handicapped, Inc.

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

The state has antidiscrimination provisions for the handicapped in the areas of employment, housing, recreation, education, and health and social welfare.

"Discrimination" means discrimination because of...handicap...by an employer or licensing agency individually or in concert with others, against any employee or any applicant for employment or licensing, in regard to his hire, tenure or term, condition or privilege of employment or licensing and by any labor organization against any member or applicant for membership, and also includes discrimination on any of said grounds in the fields of housing, recreation, education, health and social welfare as related to a condition or privilege of employment. (Section 111.32(5)(a)) Employers may not discriminate in provision of fringe benefits - they must spend equal fringe dollars on all employees regardless of disability. If protection cannot be purchased by the employer, he must give the money to the employee. (Chapter 275, laws of 1975)

No insurance company shall refuse, cancel, or deny insurance coverage to a class of risks solely on...the applicant's or insured's physical or developmental disability. (Administrative Insurance Code 654)

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on individuals subject to arrest.

DRIVERS' LICENSES

Statutes provide that only temporary licenses may be issued to persons with epilepsy. (1961 Code, Section 343.09) The department may issue a license after a six (6) month seizure-free period. (Chapter 415 laws of 1975). These temporary licenses are effective, unless sooner terminated, for six months. They are issued and are renewable every six months for two years upon presentation of a physician's certificate, which must state that he has examined the person with epilepsy and must include "...of such is the fact, the examining physician's statement that the applicant is under medication and free from seizures while under medication. The certificate shall contain the recommendation of the examining physician to the commissioner as to whether a temporary license should be issued to the applicant." After reporting at six (6) month intervals for two years, he must report once yearly on his birthdate.

WISCONSIN

(Chapter 415 laws of 1975) The statute further provides that "The commissioner is not bound by the recommendation of the examining physician but shall give fair consideration to such recommendations in exercising his discretion in acting upon the application, the criterion being whether or not, upon all the evidence, it appears that it is safe to permit the applicant to operate a vehicle. The burden of proof of such fact is upon the applicant. In deciding whether to issue or deny a license, the commissioner may be guided by the opinion of experts in the field of diagnosing and treating epilepsy and may take into consideration any other factors which bear on the issue of public safety.

"Whenever a license is denied by the commissioner, such denial may be reviewed by a reviewing board upon written request of the applicant filed with the department within 10-days after receipt of notice of such denial. The reviewing board shall consist of the commissioner and four persons designated by the chairman of the state board of health. The persons designated by the chairman shall be either members of the state board of health or physicians duly licensed to practice medicine in this state... Actions of the reviewing board are subject to judicial review..." (1961 Code, Sections 343.09 and 343.40)

The policy of the Department of Transportation is to issue a temporary license after a two (2) year seizure-free period. If a person wishes a license sooner, he may appeal for an appearance before the medical review board. Often a restricted (daylight hours only, within a certain radius of home, in periods of low traffic volume, or other) license is granted if the person has been seizure-free less than two years.

INSTITUTIONALIZATION

Statutes on admission to state institutions do not specifically mention epilepsy.

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

The state makes provision for the special education of children with exceptional educational needs. The definition of exceptional does not

cite epilepsy per se but does cite "mental retardation or other developmental disabilities". (Chapter 115, laws of 1973 (Senate Bill 185))

STATE CERTIFICATION

State certification boards do not inquire whether a candidate has or has had epilepsy.

STATE EDUCATION

The state's public higher education applications do not inquire as to a past or present history of epilepsy.

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a present or past history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses. (Chapter 66.057)

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

The Second Injury Fund provision is construed as covering persons with latent impairments. It is reported that an examination of the records from 1919 until 1960 indicates that there had been no claims for second injury benefits by employees with epilepsy. (Letter, Industrial Commission, October 21, 1960)

Wisconsin Workers' Compensation Law has been changed as of January 1, 1976. People with epilepsy can no longer be asked to sign a waiver of their workers' compensation. Also, waivers signed before that time are no longer valid. This removal of waiver should not be detrimental to people with epilepsy, however, because the Fair Employment Act prohibits employers from refusing to hire because of handicap. Of course, the person must be qualified and able to perform the job applied for.

WISCONSIN

The law cannot be enforced unless a complaint is filed against the employer. If a person feels he has been discriminated against because of epilepsy, he should file the complaints with the Equal Rights Division of the Department of Industry, Labor, and Human Relations. He does not have to prove it. That is the task of the state.

WYOMING

ADOPTION

Statutes do not cite epilepsy as a basis for adoption annulment.

ANTIDISCRIMINATION

Statutes do not contain antidiscrimination provisions for the handicapped.

ARREST/SEARCH

Statutes do not require law enforcement officials to search for emergency medical identification on persons subject to arrest.

DRIVERS' LICENSES

There are no specific provisions governing the licensing of persons with epilepsy. Generally, the Bureau of Motor Vehicles has discretion in issuing and renewing and revoking licenses to promote public safety. (Wyoming Statutes 1957, Sections 31.263-31.275 and 31.276; compiled 1967)

INSTITUTIONALIZATION

Under the Training School Act of 1971 an institution was established for the custody care, training, and education of the mentally retarded and persons with epilepsy. No person may be admitted to this institution solely on the basis of epilepsy. (Section 9-466.1 et seq.)

MARRIAGE

Marriage for persons with epilepsy is not restricted.

REPORTABILITY

Epilepsy is not required to be reported to state agencies.

SPECIAL EDUCATION

Every child of school age in the state, having a "mental, physical, or handicap psychological handicap or social maladjustment which impairs learning", is entitled to and must receive a free and appropriate education in accordance with his capabilities. (Section 21.1-284)

WYOMING

STATE CERTIFICATION

State certification boards do not inquire whether the candidate has a past or present history of epilepsy.

STATE EDUCATION

The state's public higher education applications do inquire as to a present history of seizures. On the medical history form the student is asked if he has "blackout spells or fits (epilepsy or convulsions)".

STATE EMPLOYMENT

The application for state employment does not ask whether the candidate has a past or present history of seizures.

STATE IDENTIFICATION

The state does provide identification cards for citizens not eligible for drivers' licenses.

STERILIZATION

Persons with epilepsy are not subject to sterilization.

WORKERS' COMPENSATION

Second Injury Fund benefits are available only to a person in extra-hazardous employment already disabled by loss or loss of use of a member or eye who receives a subsequent compensable injury resulting in additional disability, so that he is permanently and totally disabled by the combination of both disabilities. (Section 27-149)

WE ASKED EACH STATE TO REVIEW OUR 1972 DATA FOR POSSIBLE CORRECTION, REVISION, OR AMENDMENT

PLEASE CHECK THE PRINTED PAGE FOR POSSIBLE REVISION OF OUR 1972 DATA

COPIES OF ANY STATUTES CITED WOULD BE GREATLY APPRECIATED

LEGAL RIGHTS QUESTIONNAIRE STATE: _____

SPECIAL EDUCATION

1. Does your state make provisions for special education programs for children with epilepsy whose handicaps prevent regular class attendance? __Yes __No

   If yes, please specify/explain:

   Law __Yes __No _____

   _____

   Executive Order __Yes __No _____

   _____

   Court Order __Yes __No _____

   _____

   Is epilepsy mentioned specifically? Law __Yes __No

   Executive Order __Yes __No

   Court Order __Yes __No

2. To your knowledge, is legislation for special education programs for handicapped children pending? __Yes __No

   If yes, is epilepsy mentioned specifically? __Yes __No

   Please comment: _____

   _____

   _____

   _____

PLEASE USE BACK OF PAGE IF NECESSARY.

ANTIDISCRIMINATION

1. Does your state have antidiscrimination provisions for the handicapped in any of the following areas? Please check (X) if yes.

STATE: _____

	Law	Executive Order	Court Order
Employment Practices			
Property Ownership			
Housing			
Place of Public Accommodation			
Other _____			

Statutes, comments, etc. _____

_____

_____

_____

2. Please indicate whether epilepsy is mentioned specifically in any anti-discrimination statute or order. Place an "E" next to the "X" if epilepsy is cited.

3. To your knowledge, is antidiscriminatory legislation pending? __Yes __No

   If yes, please specify/explain: _____

_____

_____

_____

PLEASE USE BACK OF PAGE IF NECESSARY.

ADOPTION

1. Our information indicates that five states cite epilepsy in their statutes as a basis for annulment of adoption: Arkansas, California, Iowa, Missouri, and Utah. Does your state cite epilepsy? __Yes __No

STATE: _____

Statutes, comments, etc. _____

_____

2. To your knowledge, is applicable legislation pending? __Yes __No

Please comment: _____

REPORTING

1. Our information indicates that eight states have provisions in their laws for reporting persons with epilepsy to a central agency such as state health or motor vehicle departments: Connecticut, Indiana, Nevada, New Jersey, Oregon, South Dakota, California, and Delaware.

Does your state have provisions which require epilepsy to be reported? __Yes __No

Statutes, comments, etc. _____

_____

2. To your knowledge, is reporting legislation pending? __Yes __No

Please comment: _____

ARREST

1. Does your state require law enforcement officials to search for emergency medical identification on individuals subject to arrest? __Yes __No

Statutes, comments, etc. _____

_____

2. To your knowledge, is applicable legislation pending? __Yes __No

Please comment: _____

STATE EDUCATION, EMPLOYMENT, AND CERTIFICATION

1. Do the applications to your state's public higher education facilities ask whether or not the applicant has or has had epilepsy or seizures?

Has epilepsy __Yes __No Has had epilepsy __Yes __No

If yes, does epilepsy ever affect admission to undergraduate school? __Yes __No

PLEASE USE BACK OF PAGE IF NECESSARY.

STATE: _____

Please comment: _____

_____

2. Does epilepsy ever affect admission to state graduate or professional schools, such as medical school, etc.? __Yes __No

   If yes, please comment as to which schools and under what circumstances:

   _____

   _____

3. Does the application for employment by your state ask whether or not a candidate has or has had epilepsy or seizures?

   Has epilepsy __Yes __No Has had epilepsy __Yes __No

   If yes, please comment as to how this information is considered: _____

   _____

   _____

4. Do state certification boards (education, for example) ask whether or not a candidate has or has had epilepsy or seizures?

   Has epilepsy __Yes __No Has had epilepsy __Yes __No

   If yes, please comment as to which boards and as to how this information is considered: _____

   _____

5. To your knowledge, is legislation pending in any of the above areas? __Yes __No

   Please comment: _____

   _____

   _____

INSTITUTIONALIZATION

1. Our information indicates that although it may not necessarily be the only reason for commitment, seventeen states mention epilepsy in their statutes on admission to state institutions: Alabama, California, Florida, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New York, Oklahoma, Pennsylvania, Texas and Wyoming.

PLEASE USE BACK OF PAGE IF NECESSARY.

STATE: _____

Does your state mention epilepsy in its statutes on admission to state institutions? __Yes __No

Statutes, comments, etc. _____

_____

_____

2. To your knowledge, is legislation relating to institutionalization pending? __Yes __No

Please comment: _____

_____

STATE IDENTIFICATION

1. Does your state provide identification cards for citizens not eligible for drivers' licenses? __Yes __No

Statutes, comments, etc. _____

_____

2. To your knowledge, is legislation for state identification cards pending? __Yes __No

Please comment: _____

_____

PLEASE USE BACK OF PAGE IF NECESSARY.

Date _____ Signature _____

Title/Position _____

_____

BILL OF RIGHTS

AS VIEWED BY THOSE AFFLICTED WITH THE DISORDER CALLED EPILEPSY

WHEREAS, medical scientists have long known that the overwhelming majority of persons with epilepsy would be capable of leading full and productive lives were they afforded appropriate medical treatment combined with the right to enjoy the precious opportunities and freedoms that others take for granted; and

WHEREAS, it has become the stated belief of all the civilized nations of the world that all men and women, without exception, are naturally possessed of equal rights and privileges; and

WHEREAS, the four million Americans with epilepsy, representing as they do one in fifty of all of our citizens, form a significant portion of our population; and

WHEREAS, archaic or misguided customs, laws and practices have denied to this large group certain rights and privileges which, taken together, contribute immeasurably to the individual dignity and worth of every person; and

WHEREAS, the person with epilepsy neither seeks nor wishes from government or from the people any privilege or exceptional right which may be denied to others, but only those rights which are, or should be, granted to all; and

WHEREAS, every person and every community benefits proportionately to the opportunities afforded all persons to fulfill their own maximum human potential;

Now Therefore:

BE IT RESOLVED that those customs, laws and practices which hinder the ability of the person with epilepsy to live and work in dignity ought now to be ended, and that those customs, laws and practices which, if established, would enhance the ability of the person with epilepsy to fulfill to the maximum his own human potential, thereby benefiting himself, his family, his community and his nation, ought therefore to be established; and

BE IT FURTHER RESOLVED that every person with epilepsy has certain fundamental rights, derived not from the medical condition, but from the natural law; and that these rights include:

I The right to enjoy all of the freedoms and privileges afforded other citizens;

II The right to work at employment for which he may be trained or for which he is physically or mentally qualified; for those who have achieved control sufficient to permit full-time employment; the right to compete

equally for such employment without discrimination; for those who have not yet obtained such control; the right nonetheless to work at the employment which will permit them to fulfill their individual potential;

III The right to enjoy the respect of his neighbors, limited only by the extent to which his character may merit such respect, but limited not at all by his condition, which is irrelevant;

IV The right to seek and obtain in his own home community or within a reasonable distance therefrom, medical care of an excellence comparable to the best that may be available elsewhere, at a cost that is commensurate with his unburdened ability to pay;

V The right to an education or training to the full extent of his ability to learn;

VI The right of persons with epilepsy not to be submitted to treatment or legislation which automatically categorizes him as "mentally retarded" or "mentally or physically handicapped" without proper medical examination and access to appeal;

VII The right to protection against legal discrimination or abuse in any form on account of his condition.

Epilepsy
FOUNDATION OF AMERICA
®
Suite 406 • 1828 L Street, N.W. • Washington, D. C. 20036 • (202) 293-2930

MEMORANDUM

TO : Government Agencies, Voluntary Organizations and all Advocates for Persons with Epilepsy

FROM : John A. Niemitz, Director
Advocacy and Patient Services

SUBJECT: Legal Rights of Persons with Epilepsy

EFA, through the generosity of a foundation gift, has completed as enclosed, a revision of The Legal Rights of Persons with Epilepsy.

As a representative/agency in your State that has the opportunity of effecting legislative change, it is hopeful that the document will be beneficial in the planning and implementation of such activity so as to directly assure the rights of citizens with seizure disorder.

A copy of the document has been forwarded to the Developmental Disabilities Council, DD designated agency, Attorney General, Legislative Council, EFA affiliates, and Comprehensive Epilepsy Programs with each state library, identified advocacy/legal rights offices, and HEW-DD regional offices.

Your cooperation in notifying EFA as to the applicability of the publication, the future enactment of legislation related to the epilepsies, and persons or agencies to which a copy should be provided, would be appreciated.

Please do not hesitate to contact EFA if assistance is desired in regards to the material as presented, or its adaptability.

EC 110047

THE LEGAL RIGHTS OF PERSONS WITH EPILEPSY, 1976 EDITION

PAGE NUMBER	CORRECTION
1	Last full paragraph - Change "Five" to "Two" and delete "Florida, Iowa, and Utah".
17	ANTIDISCRIMINATION paragraph - add "Alaska Sta., Title 18, Chapter 80, Section 18.80 220 (1973)."
20	Delete STERILIZATION paragraph. Add "Repealed, Laws 1974, Chapter 185, Section 1, October 15, 1974."
23	ANTIDISCRIMINATION paragraph - Add "Cal. Labor Code, Section 1.20 (West Supp. 1973)."
29	ANTIDISCRIMINATION paragraph - Add "Col. Rev. Stat. Sections 24-34-502, 24-34-801 (1973)."
31	ANTIDISCRIMINATION paragraph - Add "Conn. Gen. Stat. Ann. Title 31, Section 31-126."
37	ANTIDISCRIMINATION paragraph - Add "D.C. Code, Title 34."
40	Delete ADOPTION paragraph ANTIDISCRIMINATION paragraph - Add "Fla. Stat. Ann., Chapter 413, Section 413.08 (1974)."
46	ANTIDISCRIMINATION paragraph - Add "Haw. Rev. Stat., Title 21, Chapter 378, Section 378-2 (1975)."
49	Change ARREST/SEARCH heading to DRIVER'S LICENSES.
54	ANTIDISCRIMINATION paragraph - Add "Ind. Stat. Ann., Title 22, Section 22-9-1-10 (1975)."
56	Delete ADOPTION paragraph. Add, "Repealed 1976 Session, Chapter 1229, Section 41. ANTIDISCRIMINATION paragraph - Add "Iowa Code Ann. Section 601A.6 (1974)."
59	ANTIDISCRIMINATION paragraph - Add "Kan. Sess. Laws 759-68 (1974)."
62	ANTIDISCRIMINATION paragraph - Delete "not" and add after "handicapped", with substantial disabilitity." At conclusion of paragraph add "Ky. Rev. Stat., Chap. 207 (1976)."
67	ANTIDISCRIMINATION paragraph - Add "Maine Rev. Stat. Ann., Title 5, Section 4572 (1975)."
69	ANTIDISCRIMINATION paragraph - Add "Md. Ann. Code, Art. 498, Section 1-28 (1975)."
72	ANTIDISCRIMINATION paragraph - Add "Mass. Ann. Laws, Chap. 149 Section 24K (1975)."

PAGE NUMBER	CORRECTION
77	ANTIDISCRIMINATION paragraph - Add "Minn. Stat. Ann Section 363.01-.13 (1973)."
80	ANTIDISCRIMINATION paragraph - Add "Miss. Code, Chap. 381 Section 1 (1974)."
84	ANTIDISCRIMINATION paragraph - Add "Mont. Rev. Codes Ann., Title 64, Section 64-304 (1974)."
87	ANTIDISCRIMINATION paragraph - Add "Neb. Rev. Stat. Section 48-1101 to 1125 (1973)."
90	ANTIDISCRIMINATION paragraph - Add "Nev. Rev. Stat. Section 613. 310-430 (1971).:
92	ANTIDISCRIMINATION paragraph - Add "N.H. Rev. Stat. Ann., Chap. 354-A, Section 354A:8."
95	ANTIDISCRIMINATION paragraph - Add "N.J. Stat. Ann., Title 10, Section 10:5-4-1 (1973)."
98	ANTIDISCRIMINATION paragraph - Add "N.M. Stat. Ann. Section 4-33-7 through 12 (1973)."
101	ANTIDISCRIMINATION paragraph - Add "N.Y Exec. Law Section 290-301 (McKinney's 1975)."
104	ANTIDISCRIMINATION paragraph - Add "N.C. Gen. Stat. Chap. 128, Section 128-15.3 (1971)."
108	ANTIDISCRIMINATION paragraph - Add "Ohio Rev. Code Ann. Section 4112.02 (1976)."
111	ANTIDISCRIMINATION paragraph - Add "Okla. Stat., Title 74, Chap. 27 Section 818 (1972)."
112	ANTIDISCRIMINATION paragraph - Add "Or. Rev. Stat. Section 649.425 (1975)."
116	ANTIDISCRIMINATION paragraph - Add "Pa. Stat. Ann., Title 34, Section 955 (1974)."
119	ANTIDISCRIMINATION paragraph - Add "R.I. Gen. Laws Ann. Section 28-5-2 to 38 (1975)."
123	ANTIDISCRIMINATION paragraph - Add "S.D. Compiled Laws Ann Section 3-6A-15 (1973)."

Corrective Insert to THE LEGAL RIGHTS OF PERSONS WITH EPILEPSY, 1976 Edition as of January, 1978.

PAGE NUMBER	CORRECTION
104	ARREST/SEARCH paragraph - Delete "not" and from "although it. . " Add, "House Bill 130, N.C. General Assembly, 1975".
125	ANTIDISCRIMINATION paragraph - Add "Tenn. Code Ann., Chapt. 457, Section 1 (1976)".
126	STATE IDENTIFICATION paragraph - Delete initial "not".
127	ANTIDISCRIMINATION paragraph - Add "and employment" after "facilities." At conclusion of paragraph add "Texas Civ. Stat. Ann. 4419(e) Section 3 (1975)."
129	ADOPTION paragraph - Add "Repealed 1975, Chapter 67, Section 23."
130	STERILIZATION paragraph - Add "Repealed 1975, Chapter 67, Section 19."
134	ANTIDISCRIMINATION paragraph - Add "Vt. Stat. Ann., Title 21, Section 498 (1974)."
134	ANTIDISCRIMINATION paragraph - Add "Va. Code, Chap. 457, Section 40-1 (1975). Employment discrimination prohibited, Va. Code 457, Section 40.1-28.7."
137	ANTIDISCRIMINATION paragraph - Add "Wash. Rev. Code Ann. Section 49.60.010-.320 (1974)".
140	ANTIDISCRIMINATION paragraph - Add "W. Va. Code Ann., Section 5-11-0 through 16 (1974)."
143	ANTIDISCRIMINATION paragraph - Add "Wisconsin Stat. Ann Section 111.31-.37 (1974.)"